



Planning Proposal – March 2015

Greenwood Place, Lennox Head

Lot 12 DP 581159 and part Lot 21, DP 1007134, Greenwood Place, Lennox Head

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INTRODUCTION

Summary of Planning Proposal

This planning proposal primarily relates to Lot 12, DP 581159 and part Lot 21, DP 1007134 (the subject land) Greenwood Place, Lennox Head, as shown on the Site Identification Map contained within Appendix 1. The subject land is located on the north – eastern corner of Greenwood Place and Byron Bay Road, Lennox Head.

The proponents are the Trustees of the Roman Catholic Church, Diocese of Lismore. Council records indicate that the Roman Catholic Church is shown as the owners of Lot 12 DP 581159 whereas part Lot 21 DP 1007134 is owned by Mr N F and M/s M K Condon.

The LEP amendment request (Refer Appendix 2) has been prepared by Mr Stephen Connelly, Planners North.

Lot 12 has a total area of 1.619 hectares and frontages to Byron Bay Road and Greenwood Place. Part Lot 21 has an area of approximately 6,100m² and adjoins the southernmost end of Blue Horizon Drive. The total site area is approximately 2.23 hectares.

The amendment as originally proposed by the proponent involve the rezoning of Lot 12 and that part of Lot 21 designated as a Strategic Urban Growth Area (SUGA) from RU2 Rural Landscape to R3 Medium Density Residential zone (see Existing and Proposed Zoning Maps in Appendix 1). A minimum lot size of 450m² was nominated.

A subdivision concept plan was subsequently submitted by Planners North which provided for a minimum lot size of 600m² and extended that part of Lot 21 affected by the rezoning proposal in a north easterly direction so as to facilitate a road link with Blue Horizon Drive. This extension has incorporated approximately 1050m² of land designated as a deferred matter under the provisions of Ballina LEP 2012, and which retains its 1(d) Rural (Urban Investigation) zone under the provisions of Ballina LEP 1987. Of this deferred matter area approximately 650m² is required to facilitate a road link to Blue Horizon Drive and the additional 400m² is incorporated within the proposed residential subdivision (Part of Lot 8 as shown on Plan 1 in Appendix 9).

The proponent did not provided any justification for the initial 450m² or subsequent 600m² minimum lot size proposals. When Council considered this issue, at its meeting on 26 February 2015, it resolved that for the purpose of supporting further investigation, the planning proposal is to identify a minimum lot size for subdivision of 800m² with ultimate lot size being determined after the assessment of technical information. Council also resolved to apply an R2 Low Density Residential zone to the site instead of the requested R3 Medium Density Residential zone.

The reasons which support a minimum 800m² lot size, at this stage of the rezoning process, include the following:

- The R3 Medium Density Residential zone, which adjoins the sites northern most boundary ie lots having frontage to Blue Horizon Drive, has an 800m² minimum lot size requirement.
- The subject lands eastern most boundary adjoins a “deferred matter” area under the provisions of Ballina LEP 2012. This area is zoned 1(d) Rural (Urban Investigation) under the provisions of Ballina LEP 1987 and has at times been used for animal grazing purposes. There may therefore be a need for buffer areas between any

proposed dwellings and the adjoining rural undertaking if animal grazing is proposed to again take place.

- The subject land has a cross fall of approximately 25 metres from the north-eastern to the south-western corner. The amount of fall and the subject lands designation as a Category 1 and 3 landslip susceptible area may require larger minimum lot sizes.

Council intends to further investigate the most appropriate minimum lot size through consideration of various environmental assessments post Gateway determination. The outcome of the environmental assessment process will be utilised to establish a preferred approach to the planning proposal and LEP amendment for Council's consideration. It is noted however, that Planners North have submitted two additional subdivision concept plans. One plan makes provision for the 800m² minimum lot size (Plan 3 in Appendix 9) and the other applies a part 800m² and part 600m² minimum lot size approach (Plan 2 in Appendix 9). These plans are concepts only at this stage of the process and may assist the ultimate determination of the most appropriate minimum lots size once technical reports are produced and considered.

Appendix 9 contains the subdivision concept plans submitted by Planners North.

Planning Context

Site History

In November, 2002 Ballina Shire Council adopted the Lennox Head Community Aspirations Strategic Plan (the Strategic Plan). The Council in adopting the Strategic Plan also put into place a 10 year moratorium on rezoning within the broader Lennox Head district pending the adoption of a Structure Plan. The Lennox Head Structure Plan was subsequently adopted by the Council in December 2004 effectively lifting the moratorium.

The subject land forms part of Candidate Release Area H2 within the Lennox Head Structure Plan as shown in the diagram below:

Diagram 1 – Extract from Lennox Head Structure Plan



Area H2 referred to the south-western portion of the “the hill behind the Lennox Head Village Centre” site. Being that land located generally between Greenwood Place and the existing stand of Banksia trees. Subject to more detailed assessment (via the rezoning process) to confirm the suitability of area H2 as suitable for development, the Lennox Head Structure Plan proposed the following for this area:¹

This area was proposed to be a combination of low and medium density residential development (L2 and M1 pursuant to Ballina DCP No.1) is the preferred use for this site. Any such development would need to ensure adequate buffering for road traffic noise and be well screened from the Coast Road. Access to area H2 is to be via Greenwood Place. A built form of light weight construction with little or no excavation to minimise disruption to the landform, is considered appropriate for this site. Any buildings on this site shall have a building height lower than the red roof of the duplex building to north of site at 14 Blue Horizon Drive, so as to minimise the visual impact of development in this area.

The minimum subdivision lot size applicable within an L2 area was 600m², it was also 600m² for a dwelling or 800m² for a duplex within an M1 area.

The area to the east of area H2 designated as *being retained / preserved as landscape / open space* within the structure plan has significant scenic amenity value. These qualities ultimately lead to an environmental zone being applied to this land in the draft Ballina Local Environmental Plan. This land is currently designated as a deferred matter within Ballina LEP 2012 and retains its 1(d) Rural (Urban Investigation) zoning under the provisions of Ballina LEP 1987.

Council Resolution – Planning Proposal for Rezoning of Lot 12 and part Lot 21

The request for rezoning of the subject site was reported to Council’s Ordinary Meeting held on 26 February 2015. At that meeting, the Council resolved as follows [Minute No: 260215/10]:

- 1. That Council prepare a planning proposal for the application of an R2 Residential zone over Lot 12 DP 581159 and that part of Lot 21 DP 1007134 designated as a Strategic Urban Growth Area in Ballina LEP 2012 as well as incorporating the road link to Blue Horizon Drive and the area of the proposed Lot 8.*
- 2. That the subdivision potential and associated minimum lot size for the possible future development of Lot 12 DP 581159 and part of Lot 21 DP 1007134 be determined following assessment of additional technical information.*
- 3. That for the purpose of supporting further investigation, the planning proposal is to identify a minimum lot size for subdivision of 800 m².*
- 4. That a further report be presented to the Council documenting the planning proposal prior to its submission for Gateway determination.*

Refer Appendix 5 for a copy of the report to Ballina Shire Council’s Ordinary Meeting on 26 February 2015.

The Council again considered this matter at its Ordinary Meeting on 26 March 2015 and resolved as follows [Minute No. 260315/13]:

- 1. That Council authorises the submission of a planning proposal, to amend the Ballina Local Environmental Plans 1987 and 2012, to apply an R2 Residential zone over Lot 12 DP 581159 and part of Lot 21 DP 1007134, and alter the Strategic Urban Growth Area boundaries including buffer areas, as indicated in maps which form a part of the*

¹ Lennox Head Structure Plan p25

planning proposal, to the Department of Planning and Environment for review and Gateway determination.

- 2. The planning proposal to make provision for the proposed R2 zone being subject to a minimum lot size of 800m² and the ultimate minimum lot size being subject to further investigation and determination by the Council after public exhibition.*
- 3. That upon an affirmative Gateway determination being received, the procedural steps associated with the progression of the planning proposal, including public exhibition, be undertaken.*
- 4. That a further report be presented to the Council in relation to this matter following the mandatory community consultation.*
- 5. That the Department of Planning and Environment be advised that, at this stage of the process, it is the Council's intention to exercise its delegated plan making functions.*

The report considered by Council at its meeting on 26 March 2015 is provided at Appendix Ten.

Consistency with Strategic Planning Policy

The proposed rezoning of the subject land to enable residential development is generally consistent with both Council and State Government urban planning policy. The following provides an overview of the proposed amendment with respect to key planning policy documents.

Far North Coast Regional Strategy (FNCRS)

The subject land is located within a proposed future urban release area and is also indicated as being within an area of high level constraints under the FNCRS. The proposed rezoning for residential purposes is consistent with this strategy subject to constraints being able to be mitigated. Constraints in this case consist of potential land slip susceptibility and in respect to the sea ward side of the hill (not part of this planning proposal) its visual significance.

Ballina Shire Growth Management Strategy 2012 (GMS)

The subject land is identified as a strategic urban growth area under the GMS. Given that the site is identified as a potential future urban area, the proposed rezoning for residential purposes is consistent with Council's GMS.

Lennox Head Structure Plan (LHSP)

A discussion of the relevant provisions of the LHSP is contained within the previous site history section. Part of the subject land (Lot 12, DP 581159) is designated as a Candidate Release Area within the LHSP.

Ballina Local Environmental Plan 2012 (BLEP 2012) and Ballina Local Environmental Plan 1987 (BLEP1987)

This planning proposal relates to the whole of lot 12, DP 581159 and part of lot 21, DP 1007134. The major part of the site is zoned RU2 Rural Landscape and is designated as a Strategic Urban Growth Area (SUGA) under the provisions of BLEP 2012. Part of lot 21 which has been incorporated within the rezoning proposal is designated as a deferred matter

under the provisions of BLEP 2012 and retains its 1(d) Rural (Urban Investigation) zoning under the provisions of Ballina LEP 1987.

A building height limit of 8.5 metres is applicable to the subject site and adjacent residential zoned areas under the provisions of BLEP2012.

A minimum 40ha lot size for subdivision is applicable to the RU2 zone under the provisions of BLEP2012.

Appendix 1 contains Existing and Proposed Zoning Maps.

Key Planning Issues

Key planning issues considered in relation to the proposal to date include the following:

Issue	Comment	Further Investigation Required
Coastal Zone Impacts and Visual Amenity Impacts	The site is located within the coastal zone. Consideration of relevant matters for consideration as specified in Clause 8 of <i>SEPP 71 - Coastal Protection</i> and Appendix C – Table 3 of the <i>NSW Coastal Policy</i> is required. This includes issues associated with visual impacts. The <i>Coastal Zone Design Guidelines 2003</i> are also required to be considered. Consideration of potential building envelopes and subdivision lot design will be required.	Yes
Due Diligence Aboriginal Heritage Assessment	This matter is required to be considered by the proponents under provisions administered by the Office of Environment and Heritage.	Yes
Ecological Matters	Potential flora and fauna impacts require assessment.	Yes
<i>Geotechnical Investigation</i>	This is covered in the landslip consideration. Soils are prone to erosion.	Yes
Land Contamination	Site history unclear appears to have been used for grazing for 50 years. A preliminary site investigation appears to be warranted.	Yes
Land Slip	The subject land is located within an area identified as being susceptible to land slip (Coffee Partners Pty Ltd report). More detailed investigation is required to determine the degree of risk associated with landslip and its impact on any potential residential subdivision. The Roman Catholic Church land is designated as a Category 3 landslip area. Site levels vary from approximately 22m to 38m AHD according	Yes

Issue	Comment	Further Investigation Required
	to Council's 2 metre contour map. The Condon land is designated as a Category 1 landslip susceptible area. Site levels across the whole site vary from 6m to 56m but for the land which forms a part of this planning proposal vary only from approximately 32 to 45m AHD.	
Land Use Conflicts	The compatibility of agricultural land uses, if proposed to be undertaken upon part Lot 21, with residential uses proposed for Lot 12 and part lot 21 requires consideration. A land use Conflict Risk Assessment (LUCRA) should be undertaken to determine the extent of any buffer areas required if agricultural uses such as cattle grazing are proposed. Clarification from the proponent in respect to this matter is required.	Yes
Mosquito Management Report	DCP 2012 – Chapter 2 requires subdivisions of more than 10 lots to be assessed from a mosquito's impact perspective. Issues such as the need for mosquito buffers or stormwater design features are required to be considered by an entomologist.	Yes
Road Noise Issues	A preliminary assessment related to road noise impact issues is required to determine the nature of mitigation measures that would be required and whether any of these measures have implication for minimum lot sizes.	Yes
Services and Stormwater Management Report	A stormwater management report will be required which would examine issues related to on-site stormwater detention and location of bio filtration areas, if proposed.	Yes
Traffic Impact	A formal traffic study is not required given the relatively small number of lots involved and the dual links with existing roads proposed. Council's Development Engineers requested that access to Blue Horizon Drive be incorporated within the subdivision concept as the original proposal did not provide for such access. Subsequent subdivision concept plans submitted complied with this requirement.	No
Bushfire Threat	Not bush fire prone.	No
<i>Flood Impact Assessment Report</i>	Not required – site not flood affected.	No
<i>Acid Sulfate Soils Investigation</i>	Site not shown on Acid Sulfate Soil Maps.	No

Issue	Comment	Further Investigation Required
Obstacle Limitation Surface (OLS) and ANEF	OLS - Current site levels do not breach the OLS which is at approx. 46.5m AHD. Future development may breach this level. However as no change to current building height limits are proposed no further action is considered required as part of the rezoning process. The subject land is not within ANEF contours of 20 or greater.	No
Farmland loss	Regional significant non-contiguous farmland. No further investigation of this issue is required given the strategic context of the subject land.	No

The proponent will be required to submit detailed information relating the matters identified above as requiring further investigation following Gateway determination.

PART 1 – OBJECTIVES & INTENDED OUTCOMES

The objectives of this planning proposal are to:

- enable residential development on the subject land through the application of a R2 Low Density Residential zone;
- determine a suitable minimum lot size for the subject land being not less than 800m² at this stage of the rezoning process; and
- amend the Strategic Urban Growth Area Map as it relates to the removal of areas rendered redundant after the rezoning of the subject land.

PART 2 – EXPLANATION OF THE PROPOSAL

This planning proposal relates to the whole of Lot 12 DP 581159 and part of lot 21, DP 1007134, being land having frontage to Greenwood Place and south- west of Blue Horizon Drive, Lennox Head (see Site Identification Map in Part 4).

The LEP amendment request has been prepared by Planners North on behalf of the proponent the Roman Catholic Church, Diocese of Lismore who are the owners of Lot 12 DP 581159. Lot 21 DP 1007134 is owned by Mr N F and M/s M K Condon. Council has kept Mr N F and M/s M K Condon informed of this rezoning request but has not received any correspondence from them.

The proponent has not at this stage submitted comprehensive information which addresses the various site constraints identified in Part 1. It is proposed that this information be required to be prepared and submitted post Gateway determination.

Appendix 3 contains photos of the site and surrounds.

The amendment to the LEP as proposed by the proponent involves the rezoning of the land from part RU2 Rural Landscape zone (BLEP 2012) and part 1(d) Rural (Urban Investigation)

(BLEP 1987) to enable residential development on the land via application of a R3 Medium Density Residential zone. Council when it considered the LEP amendment request resolved that an R2 Low Density Residential zone be applied to the subject site.

The proposed amendment is generally consistent with applicable local and State government urban planning policy.

The proponent initial LEP amendment request proposed a minimum lot size of 450m². This was later changed to a minimum lot size of 600m² in accordance with details contained within a subdivision concept plan. Council when it considered the LEP amendment request resolved that an 800m² minimum lot size be applied for the purpose of supporting further investigation. This lot size may still be subject to change (smaller or larger) following more detailed environmental assessment post Gateway determination. Appendix 9 contains three subdivision concept plans based on a 600m², a mixed 600m² and 800m² and an 800m² minimum lot size concept.

No change is proposed at this stage to the maximum permitted building height of 8.5 metres currently applicable to the subject land. A 8.5 metre high dwelling erected on the lot with the highest elevation (approx. RL 42m AHD) would be below the crest of the adjoining hill (approx. RL 56m AHD). It is therefore unlikely that it would be visible from Lennox Village. Vegetation which covers the hill would further act to obscure the visibility of future dwellings.

The degree of visual impact of proposed residential development will be required to be further considered by the proponent post Gateway determination. It is intended however, that development that takes place upon the subject site will not be visible from Lennox Village. Should this not to be the case, following more detailed assessment, then applicable height controls will be further considered.

Appendix 6 contains an extract from the Site Contour Map.

PART 3 – JUSTIFICATION

Section A - Need for the Planning Proposal

1. Is the planning proposal a result of any strategic study or report?

The subject land is identified in the Ballina Shire Growth Management Strategy and the Far North Coast Regional Strategy as a potential area for urban development. The Lennox Head Structure Plan also designates part of the subject land as a Candidate Release Area. The proposed rezoning for residential development purposes is considered to be consistent with local and State government urban planning policy.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes, the zoning of the land to enable residential development is the appropriate mechanism to recognise the proposed change of land use.

Section B - Relationship to the Strategic Planning Framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The proposal is consistent with the Far North Coast Regional Strategy, as the land is identified as a proposed future urban release area albeit subject to high level constraints.

4. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plans?

The proposed is consistent with the Ballina Shire Growth Management Strategy as the land is identified as a potential urban release area (see further detail under Planning Context).

The proposal is considered to be consistent with the following Prosperous Economy and Healthy Environment outcomes contained within Council's Community Strategic Plan 2013 - 2023:

PE3	WE CAN WORK CLOSE TO HOME	
PE3.1	Facilitate and provide economic land and infrastructure to support business growth	Increased availability of land and locations to support business activity
PE3.2	Facilitate and provide affordable infrastructure, both business and residential	More residents living close to where they work, with more affordable options available
HE3	OUR BUILT ENVIRONMENT BLENDS WITH THE NATURAL AND CULTURAL ENVIRONMENT	
HE3.1	Develop and implement plans that balance the built environment with the natural environment	More people are satisfied with our management of development
HE3.2	Minimise negative impacts on the natural environment	Retention of our natural environment
HE3.3	Match infrastructure with development	No under supply of community infrastructure

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The proposal is considered to be generally consistent with applicable State Environmental Planning Policies (SEPP's).

6. Is the planning proposal consistent with the applicable Ministerial Directions (S. 117 directions)?

The proposal is not consistent with the following relevant Section 117 Directions:

- 1.2 Rural Zones;
- 1.5 Rural Lands;
- 4.2 Mine Subsidence and Unstable Land
- 5.3 Farmland of State or Regional Significance on the NSW Far North Coast.

In each case the inconsistencies are considered to be minor and justifiable in terms of the criteria contained within the direction.

Inconsistencies have been documented in a Section 117 Direction checklist for this planning proposal contained in Appendix 4.

Section C - Environmental, Social and Economic Impact

- 7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposal?**

The proponent has not yet examined the ecological significance of the subject site. A detailed ecological assessment is proposed to be required post Gateway determination.

- 8. Are there any other likely environmental effects as a result of the planning proposals and how are they proposed to be managed?**

There are a number of potential environmental effects associated with the proposal which include stormwater management issues. The extent of impacts and associated mitigation measures will be required to be further assessed by the proponent post Gateway determination.

- 9. How has the planning proposal adequately addressed any social and economic effects?**

The potential for adverse social impact is considered to be limited given the infill nature of the proposed LEP amendment request.

Economic impacts associated with the release of additional residential land in a prime location are considered to be positive.

Section D - State and Commonwealth interests.

- 10. Is there adequate public infrastructure for the planning proposal?**

Development of the subject land will require the extension of existing water, sewerage, electricity and telephone infrastructure. There may also be a need for onsite stormwater management infrastructure such as on site detention and bio filtration areas. This will be further examined in a stormwater management report that the proponent will be required to prepare.

- 11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?**

Consultation has not yet been undertaken with any State or Federal Authority. The Department of Primary Industries has been identified as an agency which is proposed to be consulted primarily related to land use compatibility should agricultural uses be proposed on the residue of lot 21.

PART 4 – MAPPING

The following maps have been prepared to support this planning proposal and are contained in Appendix 1:

- Map 1 – Site Identification Map (Aerial);
- Map 2 – Site Identification Map (Cadastral);
- Map 3 – Existing Combined Zoning Map Ballina LEP 1987 and Ballina LEP 2012;
- Map 4 – Existing Zoning Map Ballina LEP 2012;
- Map 5 – Existing Zoning Map Ballina LEP 2012 (Zoomed);
- Map 6 – Proposed Land Zoning Map Ballina LEP 2012;
- Map 7 – Proposed Land Zoning Map Ballina LEP 2012 (zoomed);
- Map 8 – Proposed Strategic Urban Growth Area Map;
- Map 9 – Proposed Strategic Urban Growth Area Map (zoomed);
- Map 10 – Proposed Lot Size Map; and
- Map 11 – Proposed Lot Size Map (zoomed).

The mapping may be subject to change based on the outcome of further assessment.

PART 5 – COMMUNITY CONSULTATION

It is proposed that this planning proposal will be exhibited in accordance with the Gateway determination and the terms of the *Environmental Planning and Assessment Act 1979*. A minimum exhibition period of 28 days is suggested as appropriate for this planning proposal.

PART 6 – TIMELINE

The proposed timeline for completion of the planning proposal is as follows:

Plan Making Step	Estimated Completion
Gateway Determination	April 2015
Government Agency Consultation	May 2015
Public Exhibition Period	August 2015
Public Hearing	N/A
Submissions Assessment	September 2015
RPA Assessment of Planning Proposal and Exhibition Outcomes	October 2015
Submission of Endorsed LEP to DP&E for Finalisation	November 2015
RPA Decision to Make the LEP Amendment (if delegated)	December 2015
Forwarding of LEP Amendment to DP&E for Notification (if delegated)	January 2016

APPENDICES

Appendix 1 – Maps

Map 1 – Site Identification Map (Aerial)



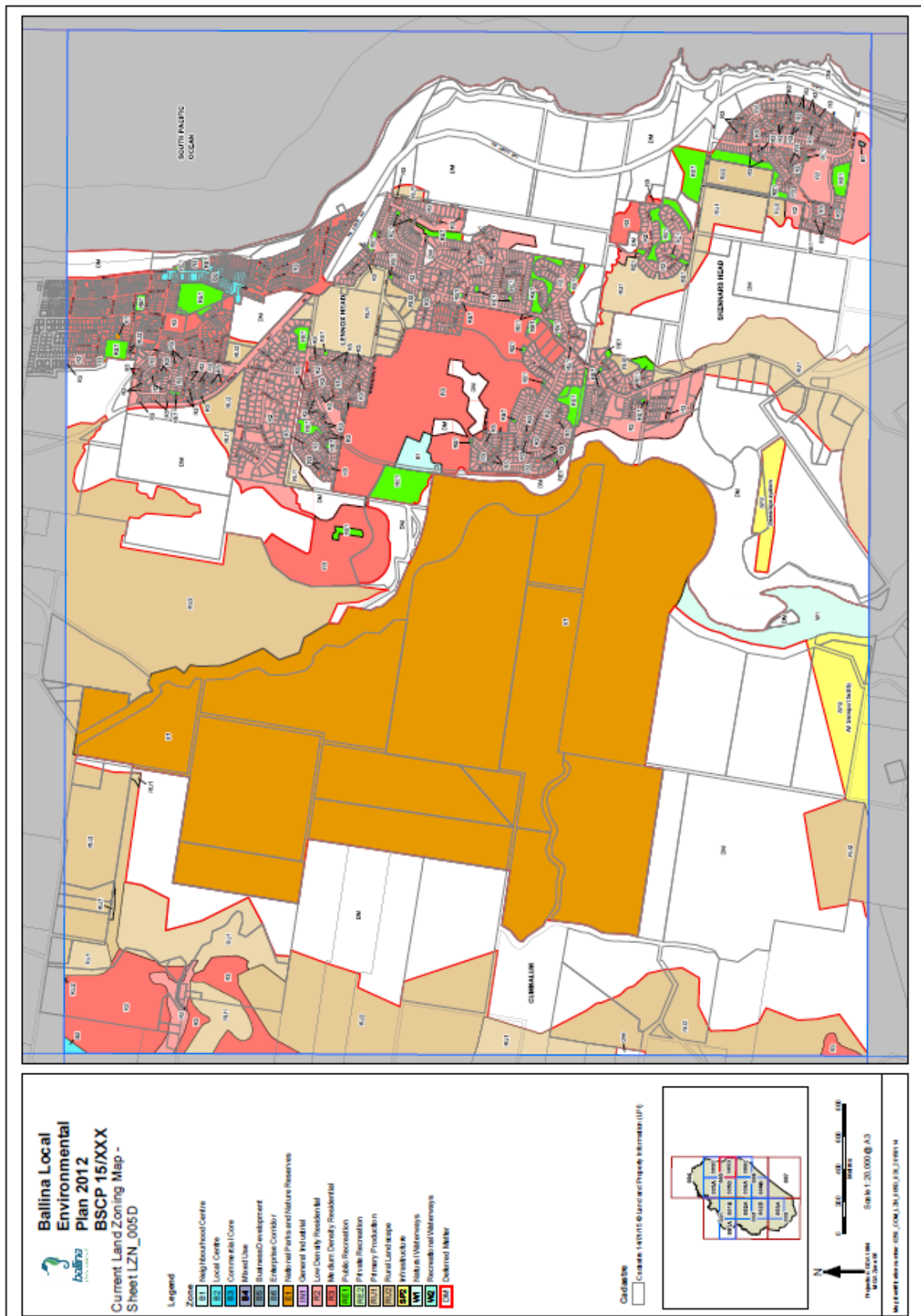
Planning Proposal – March 2015
Greenwood Place Lennox Head



Planning Proposal – March 2015
Greenwood Place Lennox Head



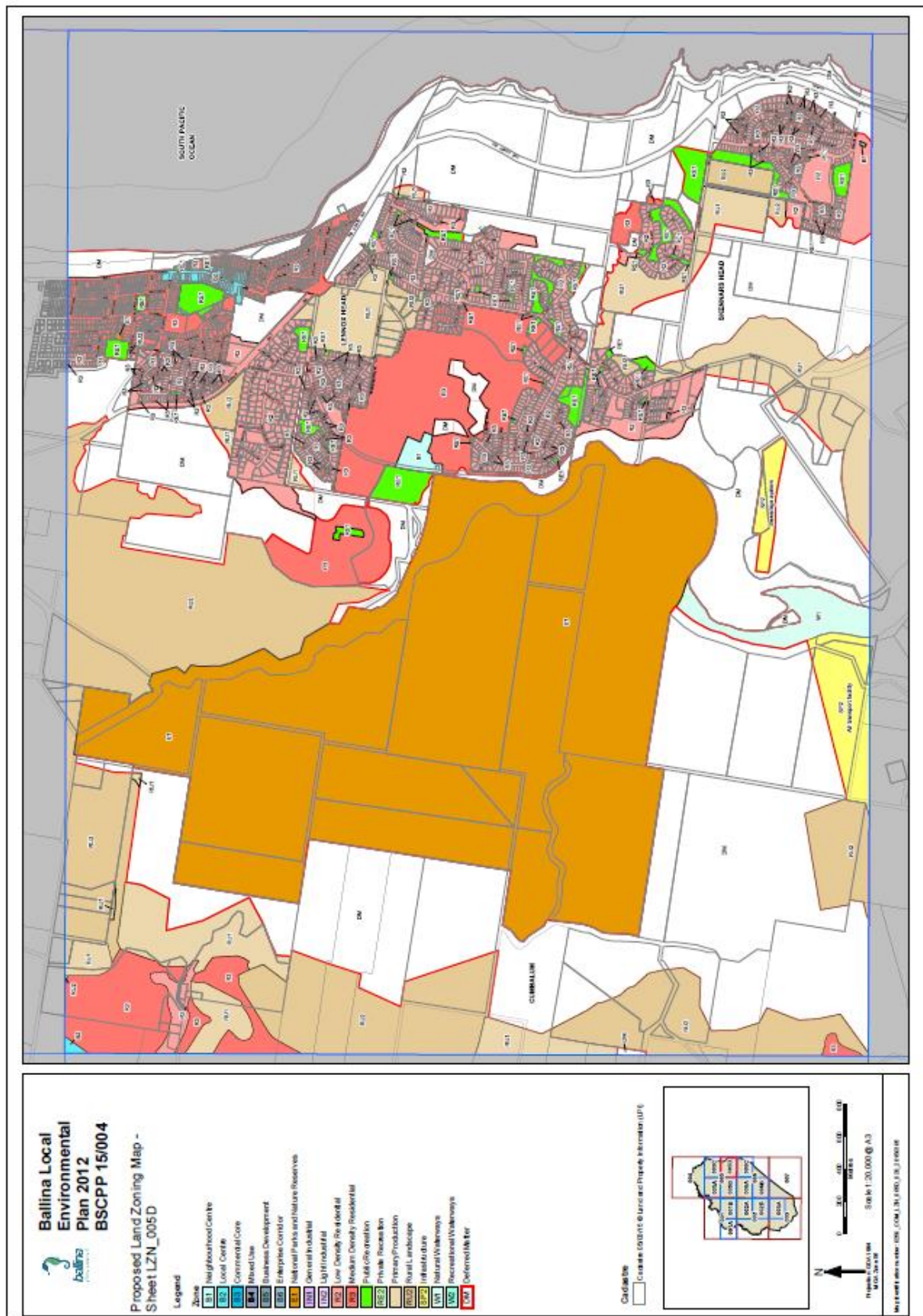
Map 4 – Existing Land Zoning Map Ballina LEP 2012



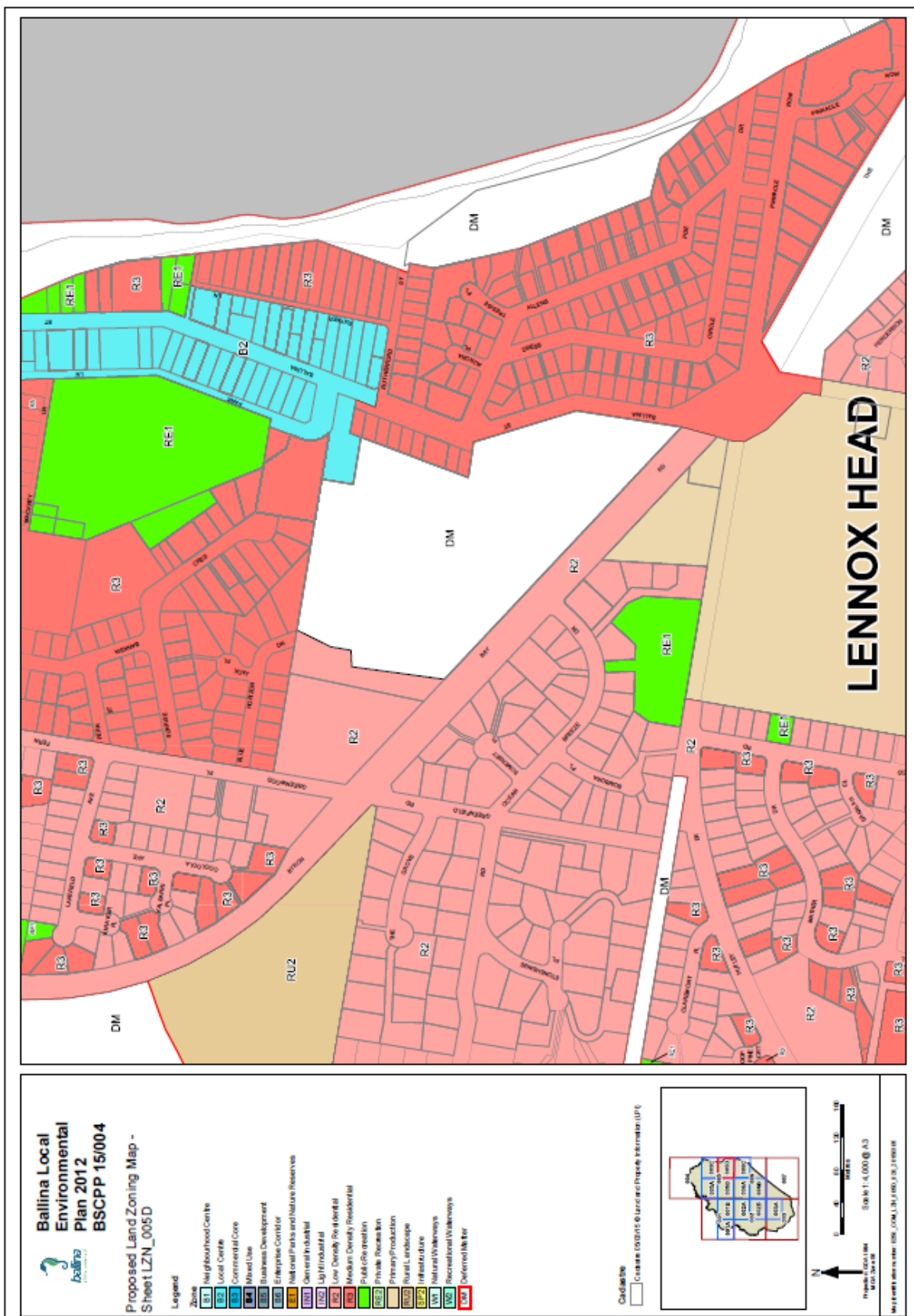
Planning Proposal – March 2015
Greenwood Place Lennox Head



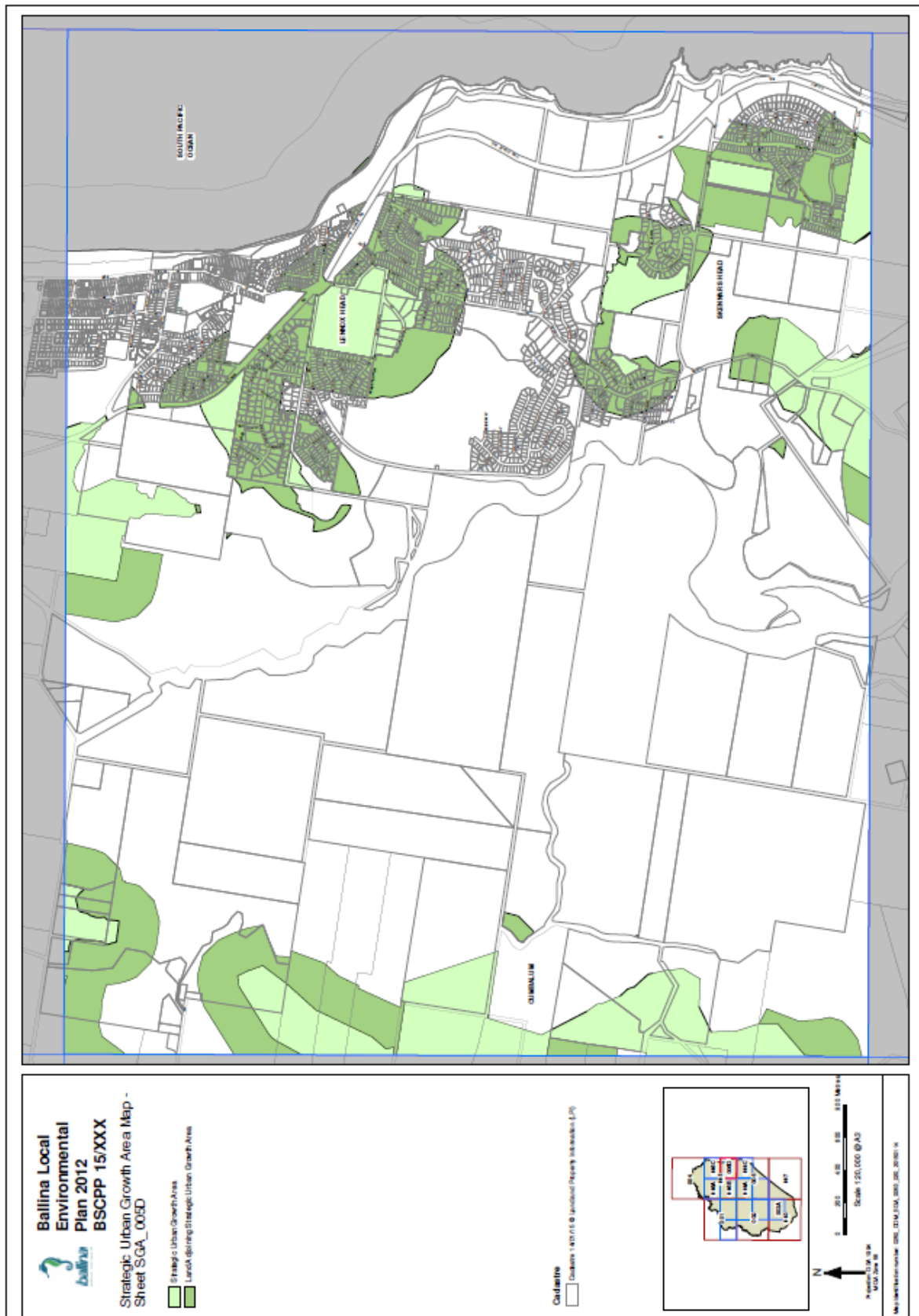
Map 6 – Proposed Zoning Map Ballina LEP 2012



Map 7 – Proposed Zoning Map Ballina LEP 2012 (Zoomed)



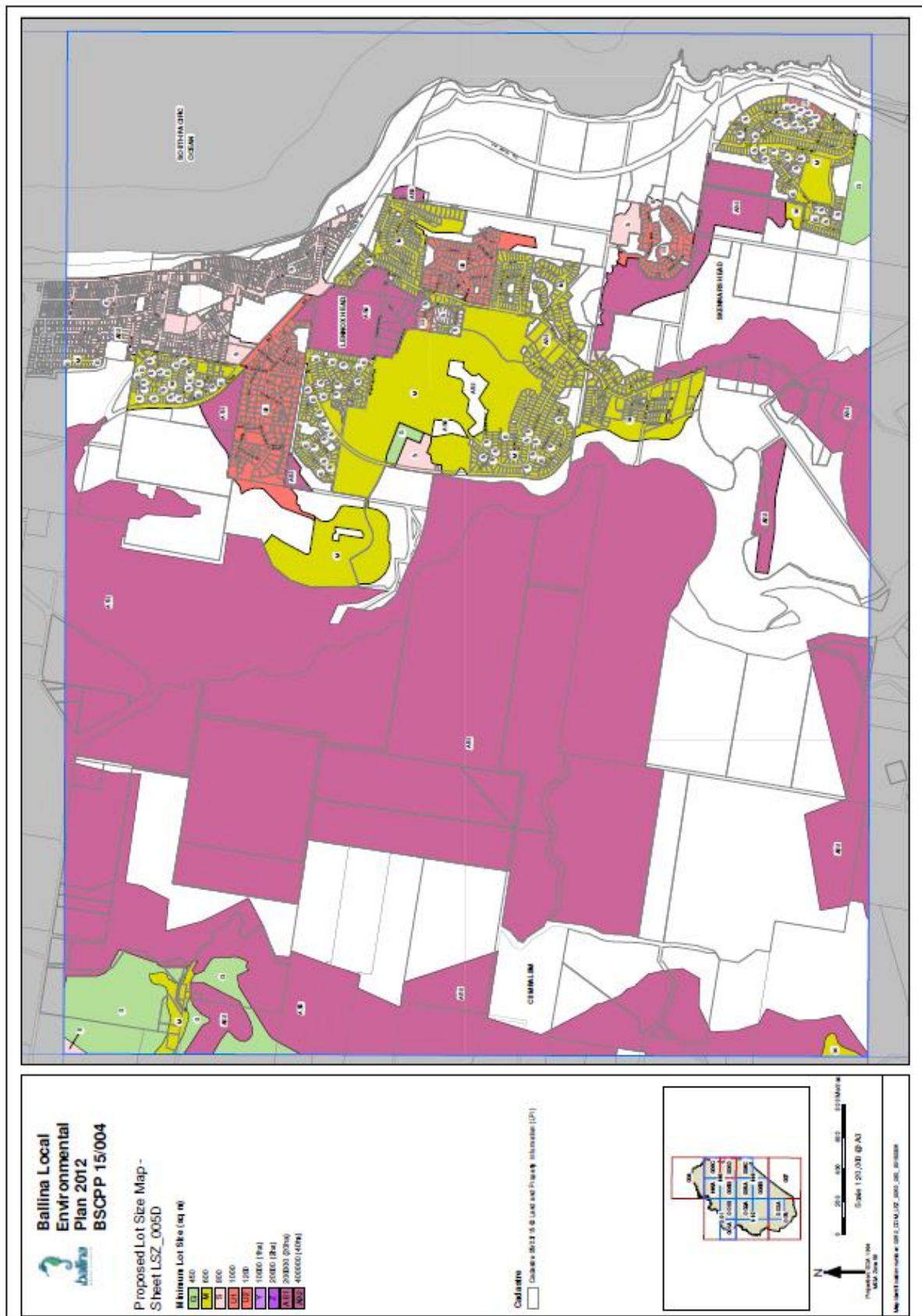
Map 8 – Proposed Strategic Urban Growth Area Map



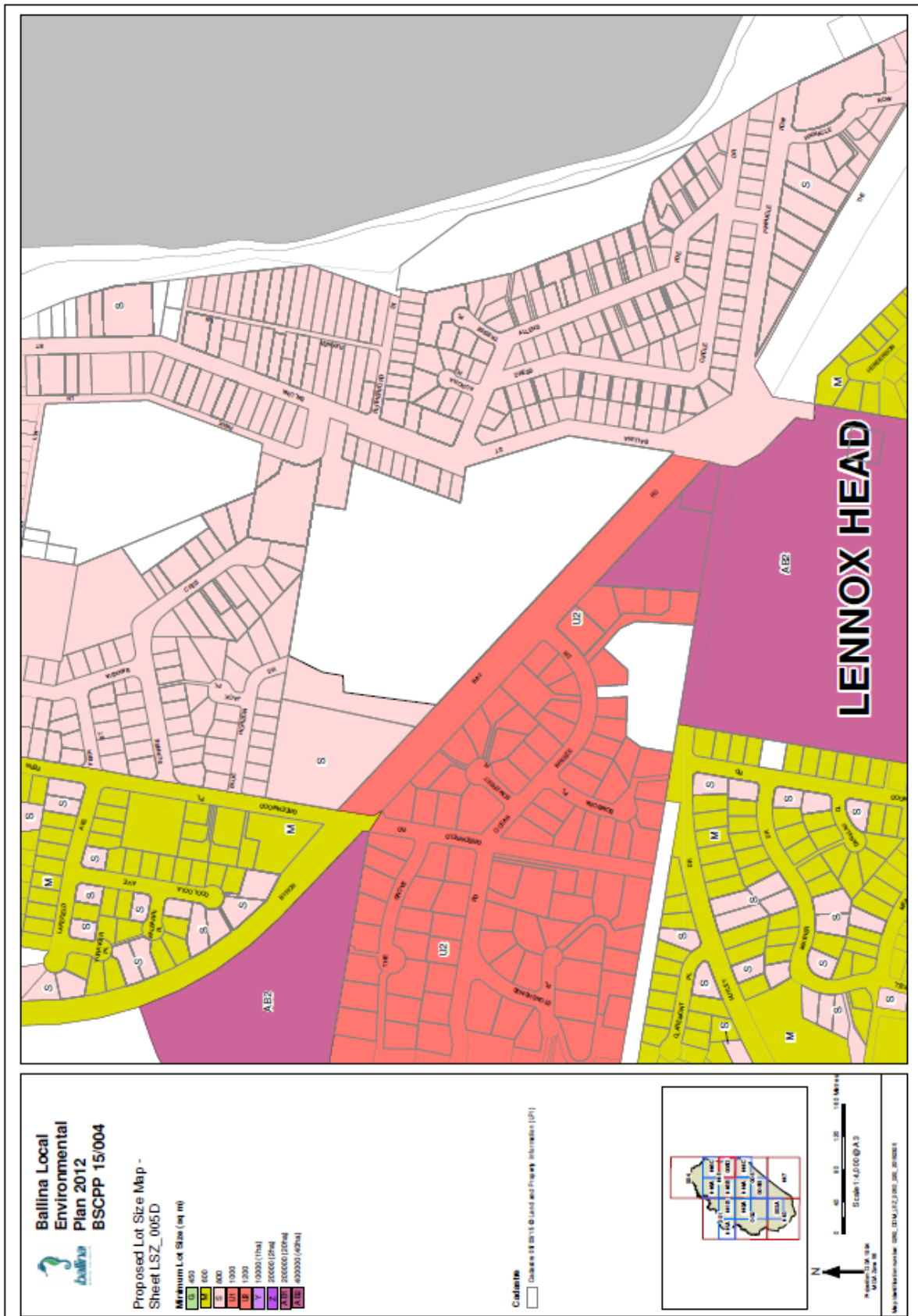
Planning Proposal – March 2015
Greenwood Place Lennox Head



Map 10 – Proposed Minimum Lot Size Map



Map 11 – Proposed Minimum Lot Size Map (zoomed)



Appendix 2 – LEP Amendment Request



abn: 56 291 496 553
6 Byron Street, PO Box 538,
Lennox Head, NSW 2478
Telephone: 1300 66 00 87

23rd December 2014
Our reference: 1371-026

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478



Dear Sir,

Re: Greenwood Place, Lennox Head - Planning Proposal

Planners North acts for the Trustees of the Roman Catholic Church, Diocese of Lismore. The Church has instructed us to prepare a Planning Proposal in relation to land in its ownership at Lennox Head. Please find attached one "black and white hard copy" of the Planning Proposal document, together with council's standards initial processing fee of \$2 700. Please note that the Planning Proposal also includes land held by the Condon Family immediately to the east. It was thought that whilst the Condon Family are not a party to this application, the 'rounding off' of the zoning in the subject locality would be appropriately addressed via the subject Planning Proposal.

Please advise us as to how many hard copies and digital copies of this documentation council requires.

Should you require any additional information or wish to clarify any matter raised by this request, please feel free to contact the writer.

Yours faithfully,

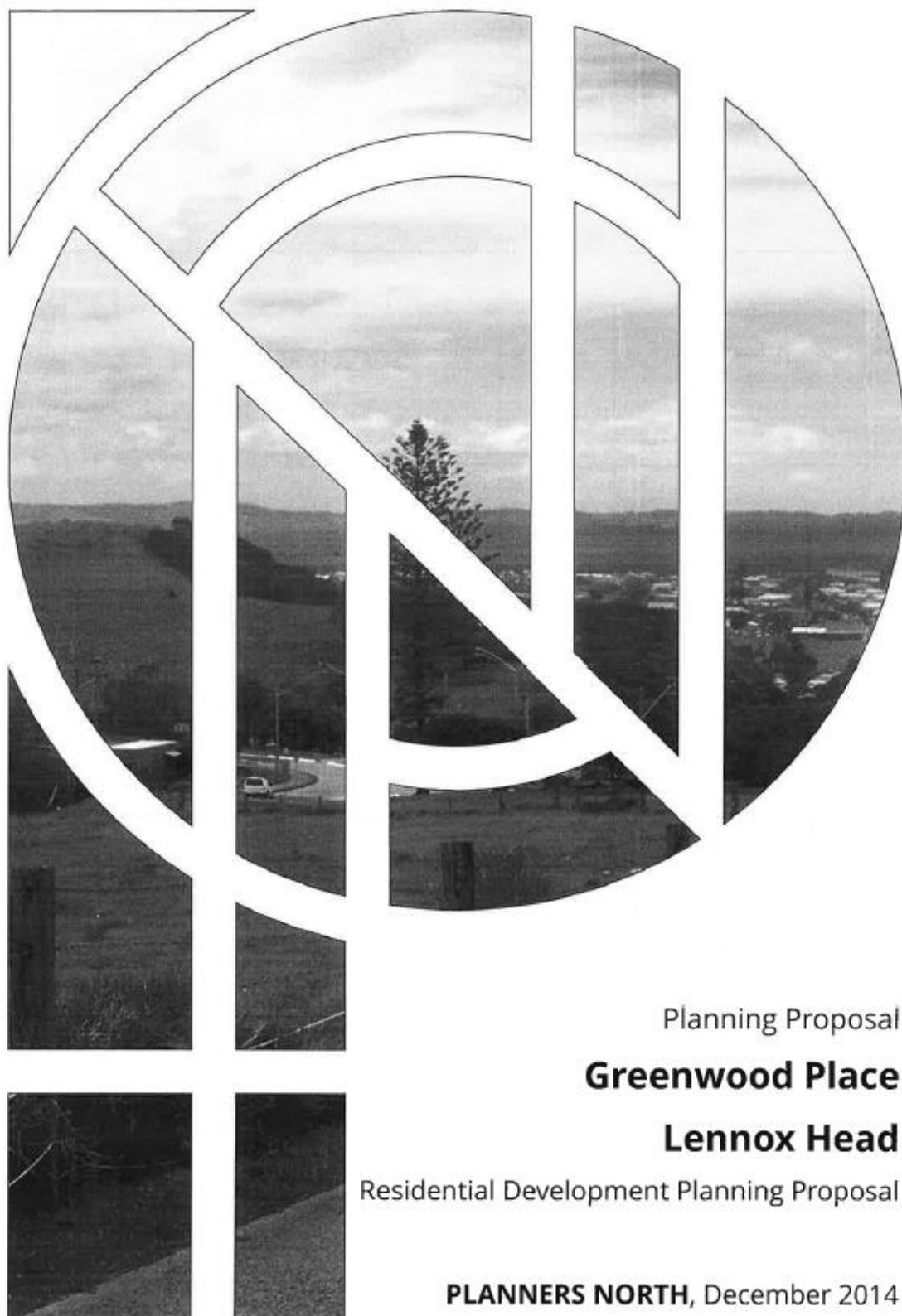
PLANNERS NORTH

A handwritten signature in black ink, appearing to read 'Stephen Connolly', written over a horizontal line.

Stephen Connolly FPIA CPP
PARTNERSHIP PRINCIPAL
(m) 0419 237 982
(e) steve@plannersnorth.com.au



Enc: Planning Proposal



Planning Proposal
Greenwood Place
Lennox Head

Residential Development Planning Proposal

PLANNERS NORTH, December 2014

COMPLIANCE AND USAGE STATEMENT

This Planning Proposal has been prepared and submitted under Part 3 of the *Environmental Planning and Assessment Act 1979* by:

Preparation

Name: S J Connelly
Company: PLANNERS NORTH
Address: P.O. Box 538
Lennox Head NSW 2478

Application

Proponent: Trustees of the Roman Catholic Church, Diocese of Lismore
Address: C/- PLANNERS NORTH
P.O. Box 538, Lennox Head NSW 2478
Land to be developed: Lot 12, DP 581159 and Part Lot 21, DP 1007134
Proposed zoning: Residential Rezoning Proposal

Certificate

I certify that I have prepared the content of this Planning Proposal and to the best of my knowledge:

- it is in accordance with the Act and Regulations, and
- it is true in all material particulars and does not, by its presentation or omission of information, materially mislead.

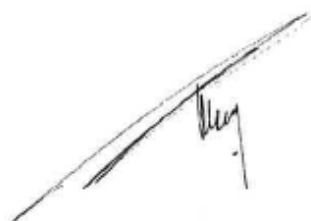
Notice

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PLANNERS NORTH declares that it does not have, nor expects to have, a beneficial interest in the subject project. Nor does it have any reportable political donations within the meaning of Section 147(3) of the Act to declare.

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Ref: 1371-503

Date: December 2014

Greenwood Place. Planning Proposal

EXECUTIVE SUMMARY

i

This Planning Proposal has been prepared by PLANNERS NORTH on behalf of the Trustees of the Roman Catholic Church, Diocese of Lismore for land at Greenwood Place, Lennox Head zoned RU2 – Rural Landscape being Lot 12, DP 581159 and Part Lot 21, DP 1007134. Lot 12, DP 581159 is held by the Trustees of the Roman Catholic Church, Diocese of Lismore. The church is the Proponent for the purposes of this Planning Proposal. The owners of Lot 21 DP 1007134 are aware of the lodgement of this application but are not a formal party to the Planning Proposal.

The purpose of this Planning Proposal is to amend the current town planning controls that apply to the site. The intended outcome of the Planning Proposal is to permit residential development of the land currently zoned RU2. No submissions are made with this Planning Proposal relating to the 'DM' classification of land in the eastern part of the Lot 21 DP 1007134.

The Planning Proposal is a site specific amendment to the BLEP12 to change zoning and minimum lot area controls that apply to the site. The intended outcome of the Planning Proposal is to amend the existing planning controls to facilitate use of the land for 'R3' purposes.

Two amendments to the BLEP12 are proposed:

- amend the zoning of the site to "R3" consistent with the zoning of land immediately to the north of the subject site, and
- amend the lot size map to identify the site as "G" – 450m² minimum lot size.

The proposed rezoning is consistent with a long history of local strategic planning for the locality including:

- Ballina Local Environmental Plan 1987 1(d) Urban Investigation Zone designation;
- Lennox Head Community Aspirations Strategic Land Use Plan, 2002;
- Lennox Head Structure Plan of 2004;
- Ballina Shire Affordability Housing Strategy of 2010; and
- Ballina Shire Growth Management Strategy of 2012. This plan sets out Council's framework for managing population growth in the Shire and identifies the land as appropriate for residential rezoning. This plan was endorsed by the Department of Planning and Infrastructure in May 2013.



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1 INTRODUCTION

This section of the report provides a brief preamble in relation to the nature of the Planning Proposal.

1.1 PREAMBLE

This Planning Proposal has been prepared by PLANNERS NORTH on behalf of the Trustees of the Roman Catholic Church, Diocese of Lismore for land at Greenwood Place, Lennox Head zoned RU2 – Rural Landscape being Lot 12, DP 581159 and Part Lot 21, DP 1007134. Lot 12, DP 581159 is held by the Trustees of the Roman Catholic Church, Diocese of Lismore. The church is the Proponent for the purposes of this Planning Proposal. The owners of Lot 21 DP 1007134 are aware of the lodgement of this application but are not a formal party to the Planning Proposal.

The purpose of this Planning Proposal is to amend the current town planning controls that apply to the site. The intended outcome of the Planning Proposal is to permit residential development of the land currently zoned RU2. No submissions are made with this Planning Proposal relating to the 'DM' classification of land in the eastern part of the Lot 21 DP 1007134.

This Planning Proposal has been prepared in accordance with Section 55 of the Environmental Planning & Assessment Act 1979 (EP&A Act). As required by Section 55 this Planning Proposal includes the following:

- a statement of the objectives or intended outcomes of the proposed instrument;
- an explanation of the provisions that are to be included in the proposed instrument;
- the justification for those objectives, outcomes and provision and the process for their implementation (including whether the proposed instrument will comply with relevant directions under Section 117);
- draft LEP amendment map, and
- details of community consultation.

The Planning Proposal has been prepared having regard to the Departmental publications "A Guide to Preparing Local Environmental Plans" and "A Guide to Preparing Planning Proposals".

1.2 FURTHER INFORMATION

Should Council or the Department require any additional information in which to clarify any matter raised by this Planning Proposal please consult with Stephen Connelly.



Photograph of the subject site from Greenfield Place looking east.



Photograph of the subject site taken from Byron Bay Road looking from the south west corner towards the north east.

2 SITE DESCRIPTION

This section of the report briefly describes the site and the current planning regime which applies to the land.

2.1 THE SITE

The site is located at Lennox Head adjacent to the intersection of Byron Bay Road and Greenwood Place. Vehicular access to the land is available from Greenwood Place. The land is approximately 2ha in area. The site is an irregular shape with a 180m frontage to the Byron Bay Road and 100m boundary to Greenwood Place.

A site location plan is shown at **Plan 2.1** and an aerial photo of the site is shown at **Plan 2.2**.

Legal Description

The site comprises the following allotments of land:

- Lot 12 DP 581159 and
- Part Lot 21 DP 1007134

The land is not subject to any covenants or easements.



View of the subject site taken from Greenwood Place.



View from the southern extremity of Greenwood Place towards the Byron Bay Road.

2.2 CURRENT PLANNING CONTROLS

Ballina Local Environmental Plan 2012 (BLEP12) is the key instrument applying to the site. It has generally replaced the former Ballina Local Environmental Plan 1987 (BLEP87). However, land immediately eastward of the land the subject of this Planning Proposal remains zoned under the Ballina Local Environmental Plan 1987 (BLEP87), being a Deferred Matter (shown as "DM" on the BLEP12 maps) from the recent BLEP12 gazettal.

Zoning

The site the subject of this Planning Proposal is zoned RU2 with a minimum subdivision area of 40 hectares.

Building Height

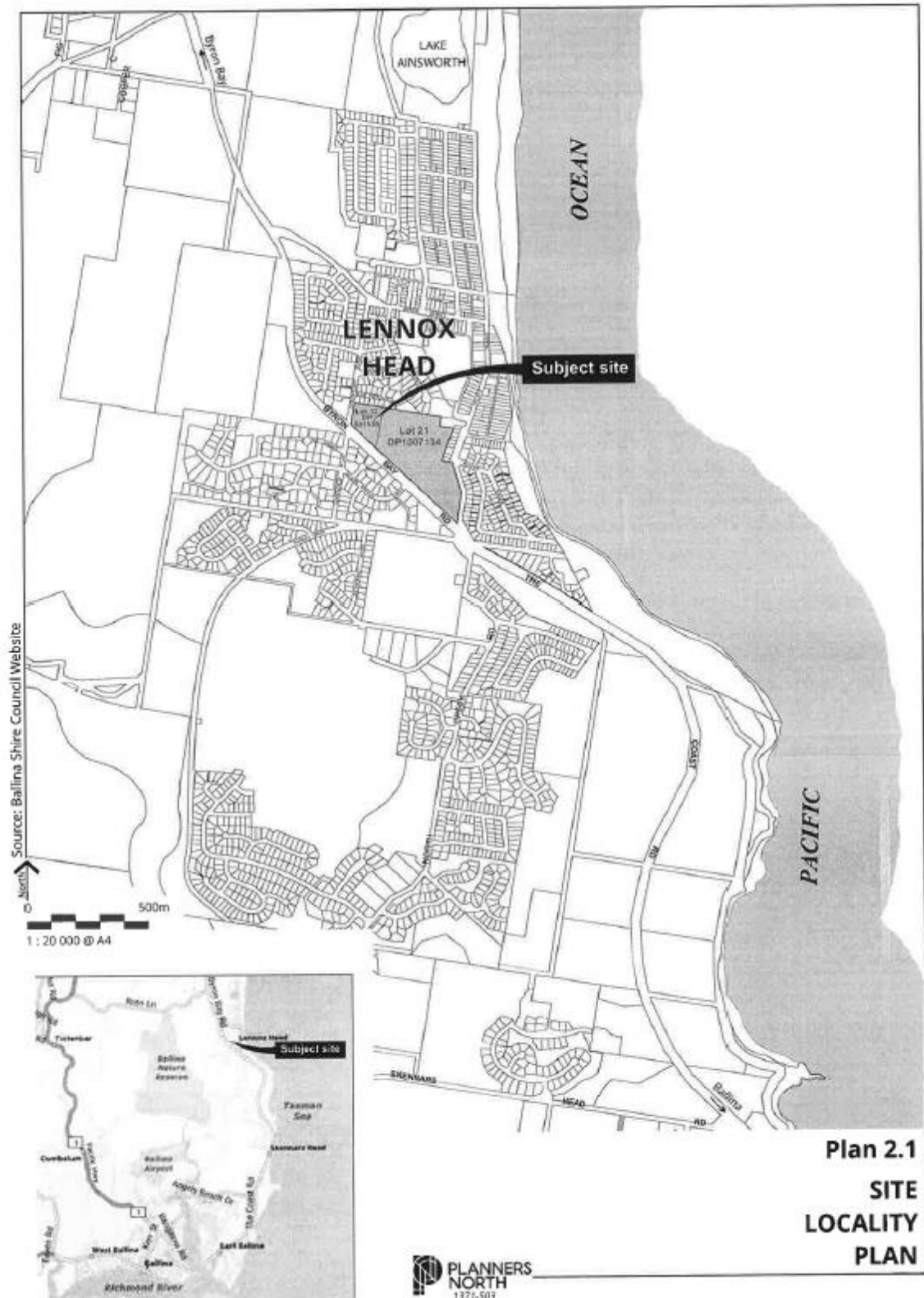
Pursuant to clause 4.3 of BLEP12 the site has an 8.5 metre height limit applying.

Floor Space Ratio

There is no maximum floor space ratio applying to any part of the site.

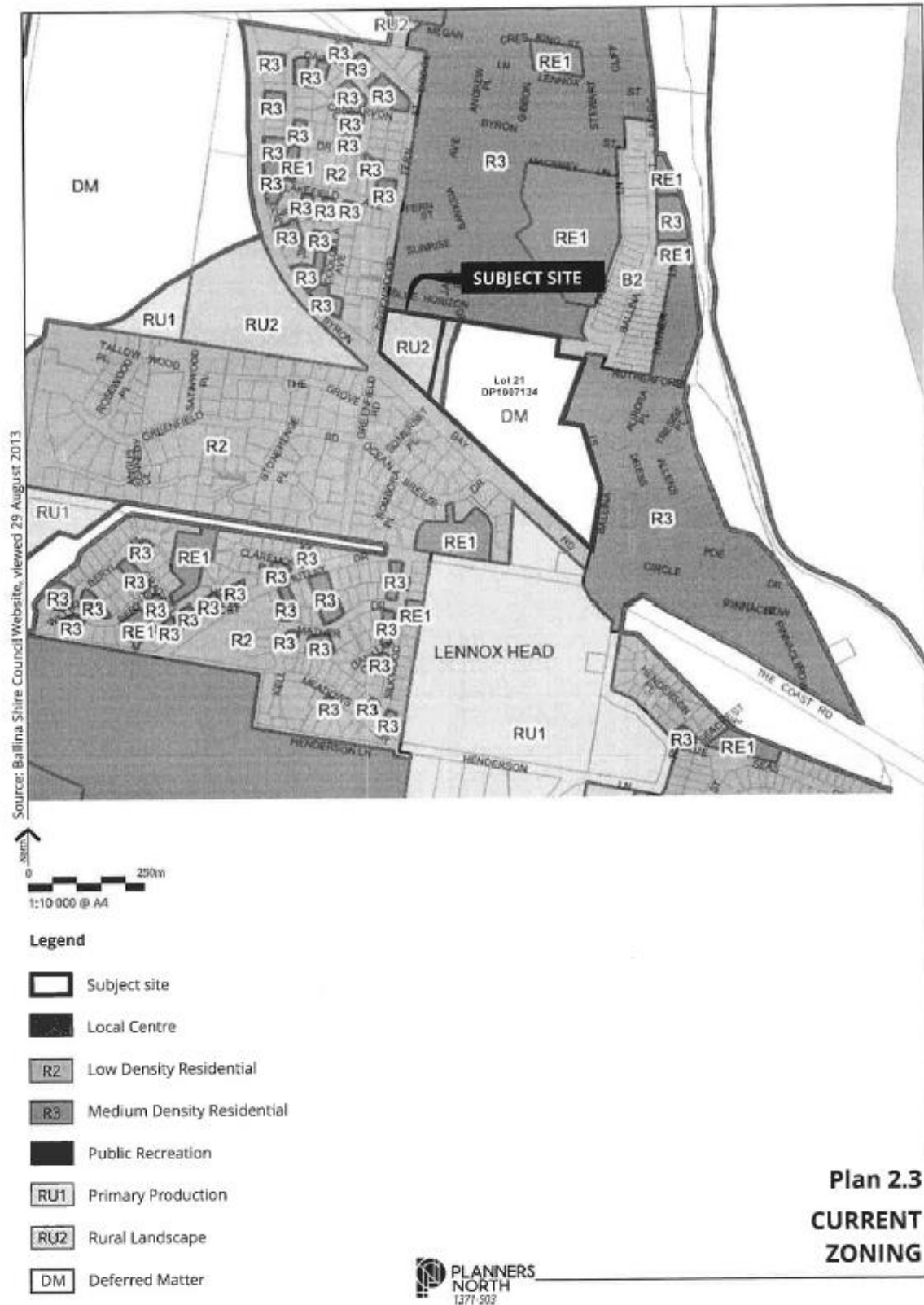
Strategic Urban Growth

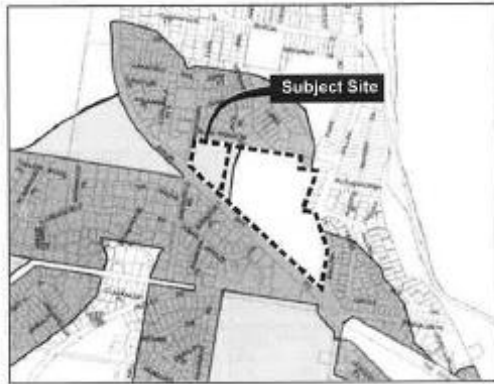
Clause 7.8 of the BLEP12 seeks to ensure that strategic development opportunities are maintained. To this end it identifies land that enjoys strategic urban growth potential. The whole of the subject land is identified as a "strategic urban growth area" in the Strategic Urban Growth Area Maps.





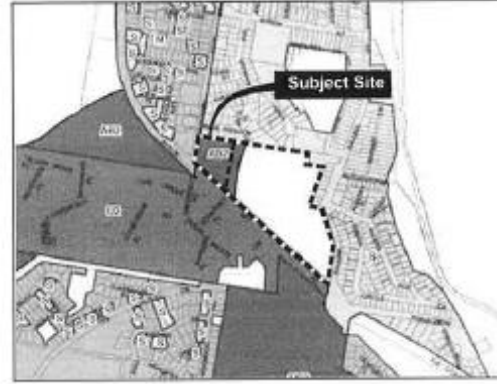
Greenwood Place. Planning Proposal





STRATEGIC URBAN GROWTH

- Strategic Urban Growth Area
- Land Adjoining Strategic Urban Growth Area



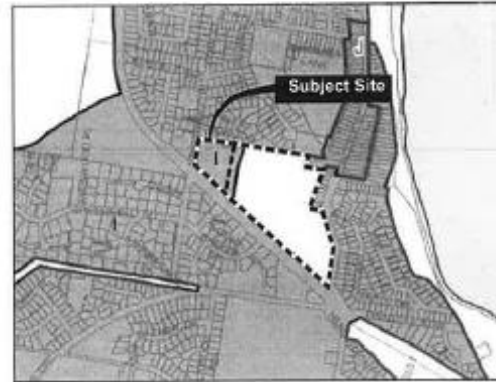
MINIMUM LOT SIZE

- 600 sq metres min. lot size
- 800 sq metres min. lot size
- 1200 sq metres min. lot size
- 40 ha min. lot size



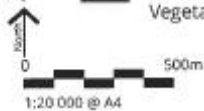
BUSHFIRE PRONE LAND

- Vegetation Category 1 -forest, woodlands, heath & wetlands
- Vegetation Category 2 -moist rainforests, shrubland, open woodlands, mallee & grasslands
- Buffer - 100m Vegetation Category 1 & 30m Vegetation Category 2



HEIGHT OF BUILDINGS

- 8.5m Max. Building Height
- 9.0 m Max. Building Height



3 PLANNING PROPOSAL

This section of the Planning Proposal describes intended outcomes and provisions sought by this submission.

3.1 OBJECTIVE

To provide for the orderly amendment of BLEP12 for residential purposes consistent with the planning strategies adopted at Local and State Government level.

3.2 INTENDED OUTCOME

The Planning Proposal is a site specific amendment to the BLEP12 to change zoning and minimum lot area controls that apply to the site. The intended outcome of the Planning Proposal is to amend the existing planning controls to facilitate use of the land for 'R3' purposes.

3.3 EXPLANATION OF THE PROVISIONS OF THE DRAFT PLAN

Two amendments to the BLEP12 are proposed:

- amend the zoning of the site to "R3" consistent with the zoning of land immediately to the north of the subject site, and
- amend the lot size map to identify the site as "G" – 450m² minimum lot size.

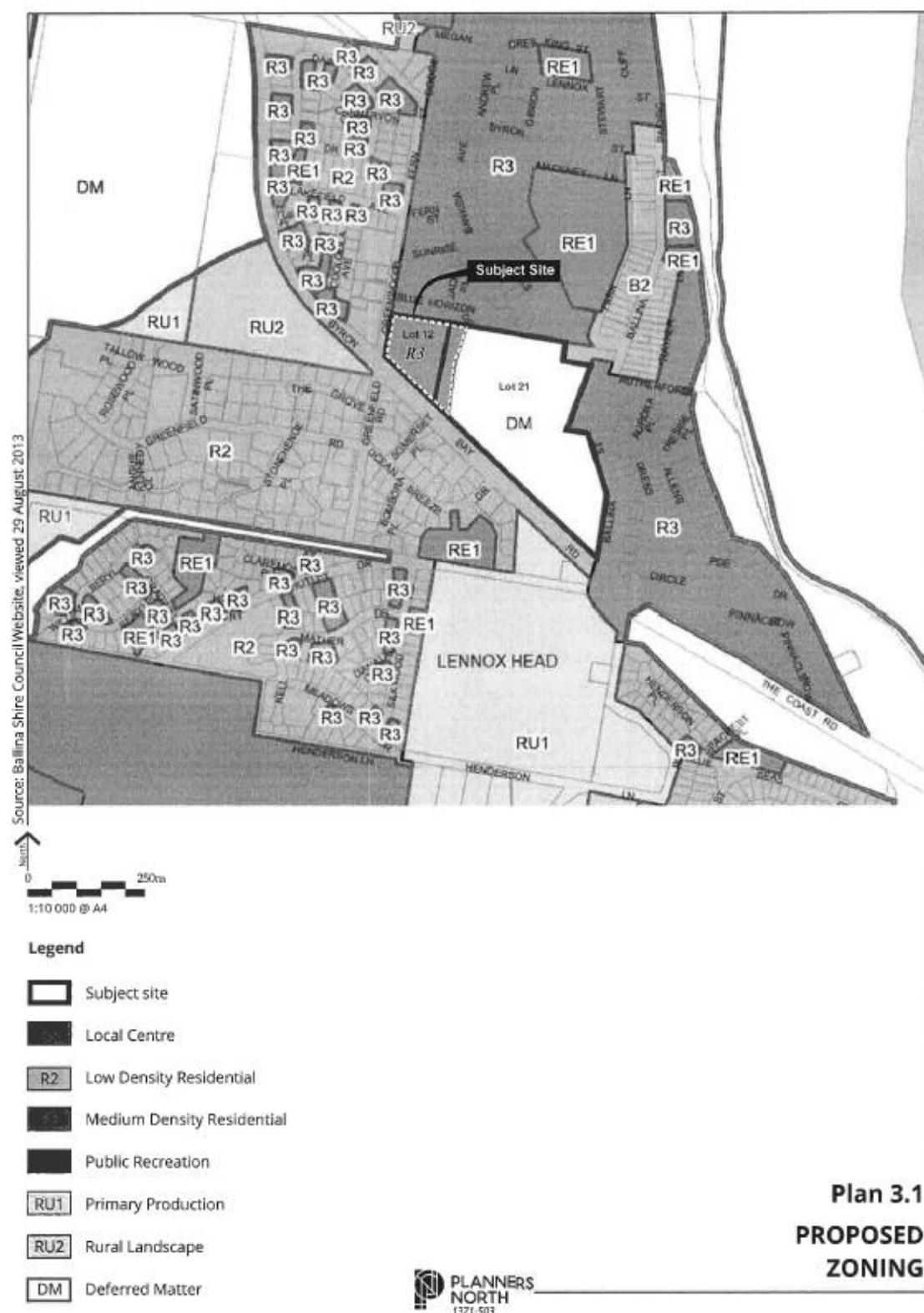


View of the subject site from the Byron Bay Road looking northwards.



Preliminary Concept Sketch for Lot 12, DP 581159.

Greenwood Place, Planning Proposal



4 JUSTIFICATION

This section of the Planning Proposal looks at the strategic context of the application and its consistency with relevant sub-regional and local strategies as well as State Environmental Planning Policies and directions issued by the Minister pursuant to Section 117 of the Act.

4.1 NEED FOR THE PLANNING PROPOSAL

4.1.1 IS THE PLANNING PROPOSAL A RESULT OF ANY STRATEGIC STUDY OR REPORT?

The proposed rezoning is consistent with a long history of local strategic planning for the locality including:

- Ballina Local Environmental Plan 1987 1(d) Urban Investigation Zone designation;
- Lennox Head Community Aspirations Strategic Land Use Plan, 2002;
- Lennox Head Structure Plan of 2004;
- Ballina Shire Affordability Housing Strategy of 2010; and
- Ballina Shire Growth Management Strategy of 2012. This plan sets out Council's framework for managing population growth in the shire and identifies the land as appropriate for residential rezoning. This plan was endorsed by the Department of Planning and Infrastructure in May 2013.

4.1.2 IS THE PLANNING PROPOSAL THE BEST MEANS OF ACHIEVING THE OBJECTIVES OR INTENDED OUTCOMES?

Rezoning of the land in the manner proposed will permit the orderly and economic development of the parcel for residential purposes. In this regard it is consistent with the strategic planning for the locality spanning some 3 decades.

4.1.3 IS THERE ANY COMMUNITY BENEFITS?

The primary community benefit will be the continuity of housing supply. This parcel is strategically located north of the Byron Bay Road and east of Greenwood Place and accordingly has excellent linkages to the Lennox Head and associated community facilities.

4.2 RELATIONSHIP TO STRATEGIC PLANNING PROPOSAL

4.2.1 CONSISTENCY WITH RELEVANT SUBREGIONAL AND METROPOLITAN PLANNING STRATEGIES

The strategic planning context for the consideration of this Planning Proposal includes:

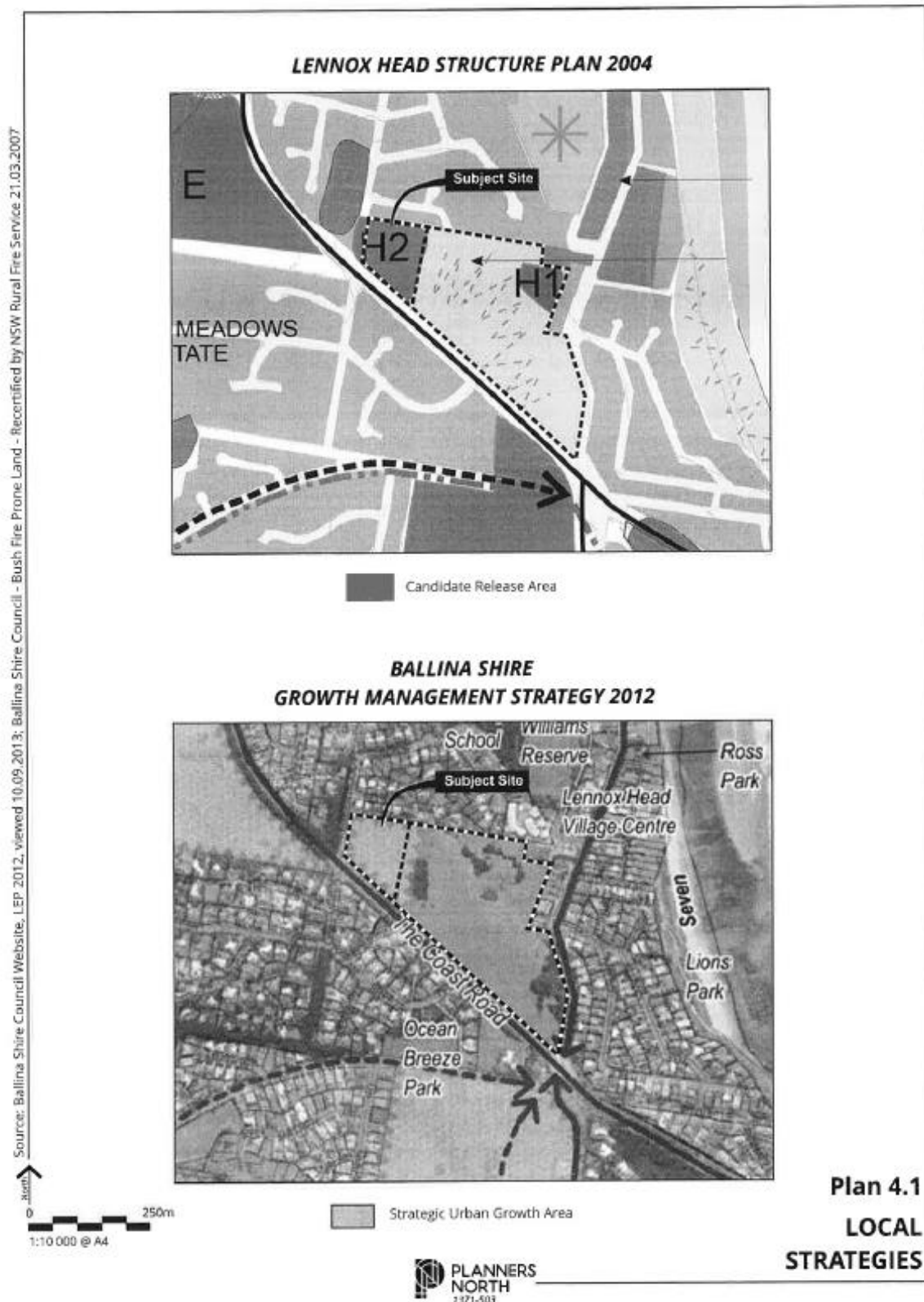
Far North Coast Regional Strategy

The Regional Strategy is an initiative of the NSW Government to guide sustainable growth across the Far North Coast Region. The aims of the Strategy are to:

- Identify and protect important environmental assets, landscape and cultural values and natural resources.
- Limit development in places constrained by coastal processes, flooding, wetlands, important farmland, and landscapes of high scenic, cultural and conservation value.



Photos of views towards the subject site from North Creek Road near the Lennox Head reservoir. The site is not visible from this location.



- Cater for the extra 60 400 people expected to be living in the Region over the next 25 years—a population increase of 26%.
- Allocate 35% of future housing to the three major regional centres—Tweed Heads, Lismore and Ballina—and reinforce their role as employment and service centres.
- Protect the coast from overdevelopment by identifying a Coastal Area (generally east of the Pacific Highway and including Tweed Heads urban areas — as shown on the Strategy Map) which limits the spread of urban development by reducing additional future housing within this area from around 75% (based on current trends) to around 60%.
- Ensure the 51 000 new homes expected to be built by 2031 are provided in a variety of suitable locations, and offer a choice in form and affordability.
- Provide appropriately located rural residential opportunities around existing settlements (excluding the Coastal Area unless part of an approved rural residential release strategy).
- Encourage growth of non-coastal towns and villages by identifying potential lands for new housing and industry to boost local economies without compromising environmental values or quality of life.
- Ensure the provision of adequate land for new business and industry that is well linked to transport and services, takes advantage of the opportunities arising from the upgrading of the Pacific Highway and which will support the creation of the projected additional 32 500 jobs needed in the Region.
- Contain areas for potential future development to within the Town and Village Growth Boundary.
- Require that any development proposals for greenfield sites west of the Coastal Area and outside of the Town and Village Growth Boundary be subject to satisfying the Sustainability Criteria.

As illustrated in **Plan 4.2**, the rezoning of the subject land was envisaged by the Far North Coast Strategy. The strategy identified the site as part of an area for future development in the town and village growth boundary.



View immediately southward of the subject site looking north along the Byron Bay Road.

4.2.2 CONSISTENCY WITH COUNCIL'S COMMUNITY AND STRATEGIC PLANS

The Ballina Shire Community Strategic Plan

The Ballina Shire Community Strategic Plan 2013/ 23 identifies values and future visions for Ballina Shire. The Plan looks at community needs and aspirations and describes what the Shire wants to occur during the next 10 years to promote a positive lifestyle and improve the amenity of residents and visitors. That Plan sits above all other Council plans and policies in the planning hierarchy. The Community Strategic Plan identifies the community's main priorities and aspirations for the future to promote a positive lifestyle and improve the amenity of residents of the shire. This plan is key to Council's decision making and planning for the next decade.

Key aspects of the Community Strategic Plan which are supported by this proposal include outcomes:

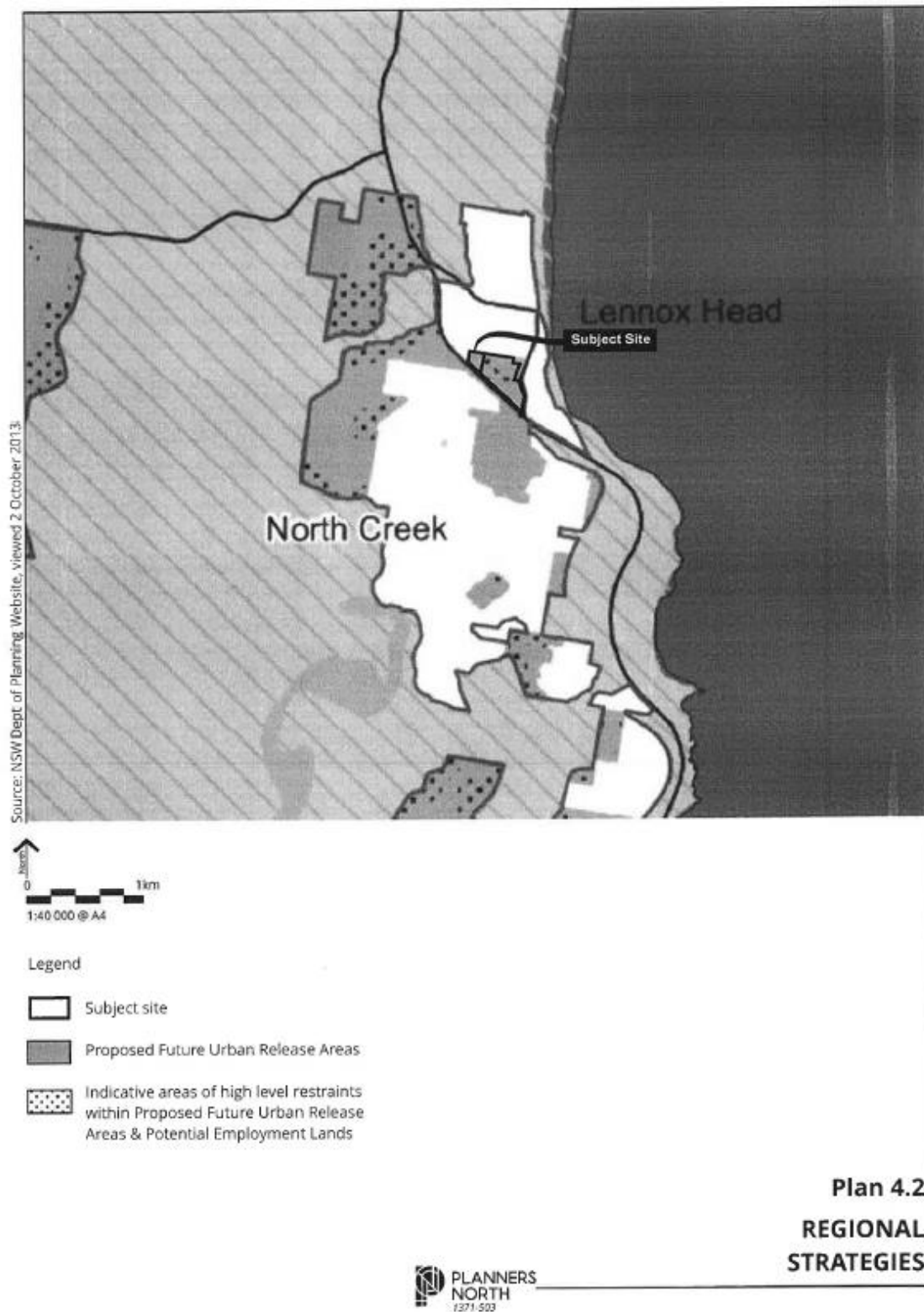
- Connected Community, particularly outcome CC3 where services and facilities and transport options suit community needs;
- Prosperous Economy, particularly outcome PE3 concerning the ability to work close to home; and
- Healthy Environment, particularly HE1 and HE3 concerning an understanding of the environment and the creation of a built environment that blends with the natural environment.

4.3 CONSISTENCY WITH STATE ENVIRONMENTAL PLANNING POLICIES

An assessment of the Planning Proposal against applicable State Environmental Planning Policies (SEPPs) is provided in **Table 4.1** below.



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TABLE 4.1 – CONSISTENCY WITH RELEVANT SEPPs

State Environmental Planning Policies (SEPPs)	Consistent		N/A	Comment
	YES	NO		
SEPP No 1 Development Standards			✓	SEPP 1 does not apply to Ballina LEP 2012.
SEPP No 4 Development Without Consent and Miscellaneous Exempt and Complying Development			✓	Applies to the whole of the State. Will apply to future development of the site.
SEPP No 6 Number of Storeys			✓	Standard instrument definitions apply.
State Environmental Planning Policy No 14—Coastal Wetlands			✓	The subject site is not located adjacent to any coastal wetland.
State Environmental Planning Policy No 15—Rural Landsharing Communities			✓	No "hamlet development" is envisaged pursuant to this proposal.
SEPP No 19 Bushland in Urban Areas			✓	Applies to the whole of the State. Not relevant to proposed amendment.
SEPP No 21 Caravan Parks			✓	Applies to the whole of the State. Not relevant to proposed amendment.
SEPP No 22 Shops and Commercial Premises			✓	Applies to the whole of the State. Not relevant to proposed amendment.
SEPP No 26 Littoral Rainforests			✓	Applies to the whole of the State. Not relevant to proposed amendment.
State Environmental Planning Policy No 29—Western Sydney Recreation Area			✓	
SEPP No 30 Intensive Agriculture			✓	Applies to the whole of the State. Not relevant to proposed amendment.
SEPP No 32 Urban Consolidation (Redevelopment of Urban Land)	✓			Urban consolidation is contemplated particularly with reference to the minimum area of subdivision proposed.
SEPP No 33 Hazardous and Offensive Development			✓	Applies to the whole of the State. Not relevant to proposed amendment.
SEPP No 36 Manufactured Home Estates			✓	Applies to the whole of the State. Not relevant to proposed amendment.
State Environmental Planning Policy No 39—Spit Island Bird Habitat			✓	
State Environmental Planning Policy No 44—Koala Habitat Protection			✓	The land is not identified as koala habitat protection area.



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State Environmental Planning Policies (SEPPs)	Consistent		N/A	Comment
	YES	NO		
State Environmental Planning Policy No 47—Moore Park Showground			✓	
SEPP No 50 Canal Estate Development			✓	Applies to the whole of the State. Not relevant to proposed amendment.
State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and Water Management Plan Areas			✓	
SEPP No 55 Remediation of Land	✓			The history of use of the site for low scale, low intensity agricultural uses is not suggestive of any potentially contaminating actions at the land.
State Environmental Planning Policy No 59—Central Western Sydney Regional Open Space and Residential			✓	The subject area is not located within the Central Western Sydney precinct.
SEPP No 60 Exempt and Complying Development	✓			Applies to the whole of the State. Will apply to future development of the site.
SEPP No.62 Sustainable Aquaculture			✓	Applies to the whole of the State. Not relevant to proposed amendment.
SEPP No 64 Advertising and signage			✓	Applies to the whole of the State. Not relevant to proposed amendment.
SEPP No 65 Design Quality of Residential Flat Development	✓			The proposal is consistent with the outcomes for design quality. However, no residential flat buildings of the scale specified in SEPP 65 are envisaged at this site.
SEPP No.70 Affordable Housing (Revised Schemes)			✓	Applies to the whole of the State. Not relevant to proposed amendment.
State Environmental Planning Policy No 71—Coastal Protection			✓	The proposal is consistent with the provisions of SEPP 71. For ease of examination, Table 4.2 sets out relevant SEPP considerations in the subject circumstances.
SEPP (Affordable Rental Housing) 2009	✓			Applies to the whole of the State. May apply to future development of the site.
SEPP(BASIX) 2004	✓			Applies to the whole of the State. Will apply to future

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State Environmental Planning Policies (SEPPs)	Consistent		N/A	Comment
	YES	NO		
				residential development of the site.
SEPP (Exempt and Complying Development Codes) 2008	✓			Applies to the whole of the State. May apply to future development of the site.
SEPP(Housing for Seniors or People with a Disability) 2004	✓			Applies to the whole of the State. May apply to future development of the site.
SEPP (Infrastructure) 2007	✓			Applies to the whole of the State. May apply to future development of the site.
State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007			✓	
State Environmental Planning Policy (Kurnell Peninsula) 1989			✓	
SEPP (Major Development) 2005	✓			Applies to the whole of the State.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007			✓	Applies to the whole of the State. Not relevant to proposed amendment.
State Environmental Planning Policy (Penrith Lakes Scheme) 1989			✓	
State Environmental Planning Policy (Rural Lands) 2008	✓			The subject land is currently zoned for rural purposes but has been identified for some three decades as appropriate for residential purposes and accordingly its development for residential purposes is consistent with the outcomes for the Rural Residential Land SEPP.
State Environmental Planning Policy (SEPP 53 Transitional Provisions) 2011			✓	
State Environmental Planning Policy (State and Regional Development) 2011			✓	
State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011			✓	
State Environmental Planning Policy (Sydney Region Growth Centres) 2006			✓	
SEPP (Temporary Structures) 2007	✓			Applies to the whole of the State. May apply to future development of the site.



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State Environmental Planning Policies (SEPPs)	Consistent		N/A	Comment
	YES	NO		
State Environmental Planning Policy (Urban Renewal) 2010			✓	
State Environmental Planning Policy (Western Sydney Employment Area) 2009			✓	
State Environmental Planning Policy (Western Sydney Parklands) 2009			✓	
Deemed SEPPs				
North Coast Regional Environmental Plan			✓	The North Coast Environmental Plan no longer applies to the land the subject of this application.

4.3.3 CONSISTENCY WITH APPLICABLE MINISTERIAL DIRECTIONS

A summary assessment of the Planning Proposal against the Directions issued by the Minister for Planning under Section 117 of the EP&A Act is provided in **Table 4.2** below.

TABLE 4.2 – ASSESSMENT against Section 117 Directions

Ministerial Directions	Consistent		N/A	Comment
	YES	NO		
1. Employment and Resources				
1.1 Business and Industrial Zones			✓	
1.2 Rural Zones	✓			Because of the historic planning for the locality the rezoning for rural to an urban zone is not at odds with good rural land planning practice.
1.3 Mining, Petroleum Production and Extractive Industries			✓	
1.4 Oyster Aquaculture			✓	
1.5 Rural Lands	✓			Because of the historic planning for the locality the rezoning for rural to an urban zone is not at odds with good rural land planning practice.
2. Environment and Heritage				
2.1 Environment Protection Zones			✓	
2.2 Coastal Protection	✓			The site is located some 500m from the coastline.



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Ministerial Directions	Consistent		N/A	Comment
	YES	NO		
2.3 Heritage Conservation	✓			
2.4 Recreation Vehicle Areas			✓	
3. Housing, Infrastructure and Urban Development				
3.1 Residential Zones	✓			The proposal provides for a residential zone consistent with the zoning of land immediately to the north and a minimum lot size which is consistent with Council's affordable housing and community strategic plan goals and objectives.
3.2 Caravan Parks and Manufactured Home Estates			✓	
3.3 Home Occupations			✓	
3.4 Integrating Land Use and Transport	✓			
3.5 Development Near Licensed Aerodromes			✓	
3.6 Shooting Ranges			✓	
4. Hazard and Risk				
4.1 Acid Sulfate Soils			✓	
4.2 Mine Subsidence and Unstable Land			✓	
4.3 Flood Prone Land			✓	
4.4 Planning for Bushfire Protection			✓	
5. Regional Planning				
5.1 Implementation of Regional Strategies	✓			
5.2 Sydney Drinking Water Catchments			✓	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	✓			
5.4 Commercial and Retail Development along the Pacific Highway, North Coast			✓	
5.8 Second Sydney Airport: Badgerys Creek			✓	
6. Local Plan Making				



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Ministerial Directions	Consistent		N/A	Comment
	YES	NO		
6.1 Approval and Referral Requirements	✓			
6.2 Reserving Land for Public Purposes			✓	
6.3 Site Specific Provisions	✓			
7. Metropolitan Planning				
7.1 Implementation of the Metropolitan Plan for Sydney 2036	✓			

4.4 ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

4.4.1 IMPACT ON CRITICAL HABITAT, THREATENED SPECIES AND ECOLOGICAL COMMUNITIES

The subject site is grazing land which has been used for agricultural purposes for some five decades. No critical habitat or threatened species exist at the site.

4.4.2 SOCIAL AND ECONOMIC IMPACTS

Rezoning of the land will provide for the orderly development of land for residential housing purposes and accordingly should impact positively in terms of the social economic environment of the Lennox Head locality.

4.5 STATE AND COMMONWEALTH INTERESTS

4.5.1 PUBLIC INFRASTRUCTURE

The land has been identified for urbanisation for some three decades and accordingly all the necessary public infrastructure is available or near to the site.

4.6 COMMUNITY CONSULTATION

No site specific community consultation has been undertaken in relation to the rezoning of the land by the owners. Recently Council's BLEP12 Exhibition and Growth Management Strategies both clearly identify the land for future urban purposes and these studies follow from earlier strategic planning for the Lennox Head Structure Plan and Lennox Head Community Aspirations which all involve comprehensive community consultation.



View immediately southward of the subject site looking north along the Byron Bay Road.

5 CONCLUSION

The subject land has been "on the books" for residential rezoning for some three decades. The proposal is consistent with a raft of strategic planning including:

- Ballina Local Environmental Plan 1987 1(d) Urban Investigation Zone designation;
- Lennox Head Community Aspirations Strategic Land Use Plan, 2002;
- Lennox Head Structure Plan of 2004;
- Ballina Shire Affordability Housing Strategy of 2010;
- Ballina Shire Growth Management Strategy of 2012. This plan sets out Council's framework for managing population growth in the shire and identifies the land as appropriate for residential rezoning. This plan was endorsed by the Department of Planning and Infrastructure in May 2013;
- Far North Coast Regional Strategy; and
- Ballina Shire Community Strategic Plan.

Zoning amendment as proposed is consistent with relevant State Environmental Planning Policies and the directions issued by the Minister under Section 117 of the Environmental Planning and Assessment Act. Having regard to the above strategic planning context, we respectfully submit that this Planning Proposal is another step forward in the orderly and economic development of the Shire.



Aerial view of the land the subject of this Planning Proposal in the context of existing urban development in Lennox Head.

Stephen Connelly FPIA CPP
PARTNERSHIP PRINCIPAL
PLANNERS NORTH



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REFERENCES

- BSC, 2004 *Lennox Head Structure Plan*, Ballina Shire Council, 2004 and amended January 2006.
- BSC, 2006(a) *Lennox Head Community Aspirations Strategic Land Use Plan*, Ballina Shire Council, 2006
- BSC, 2006(b) *People Place Prosperity: A Framework for a More Sustainable Ballina Shire 2025*, Ballina Shire Council, September 2006.
- BSC, 2010 *Ballina Shire Affordability Housing Strategy*, Ballina Shire Council, 25 March 2010.
- BSC, 2012 *Ballina Shire Growth Management Strategy*, Ballina Shire Council, endorsed by the Department of Planning and Infrastructure, May 2013.
- BSC, 2013 *Our Community Our Future, Ballina Shire Community Strategic Plan 2013/ 2023*, Ballina Shire Council, 2013.
- DoPI, 2012 *A Guide to Preparation of Local Environmental Plans*, Department of Planning and Infrastructure, October 2012.
- DoP, 2009 *A Guide to Preparing Planning Proposals*, Department of Planning, July 2009.
- DoP, 2006 *Far North Coast Regional Strategy*, Department of Planning, December 2006.

Appendix 3 – Photos of Site and Surrounds



Photo 1 – View across Lot 12 from Greenwood Place towards rear of properties which front Blue Horizon Drive



Photo 2 –South – East view from Greenwood Place across Lot 12 towards Byron Bay Road



Photo 3 – Southerly view along Greenwood Place towards Byron Bay Road



Photo 4 – Pedestrian access way at the southern end of Greenwood Place leading to Byron Bay Road underpass



Photo 5 – View along northern boundary of the subject land from Blue Horizon Drive looking towards the west



Photo 6 – View across part Lot 21 looking south from Blue Horizon Drive



Photo 7 – Southern most end of Blue Horizon Drive



Photo 8 – Duplex at 14 Blue Horizon Drive, Lennox Head, which adjoins the subject land.



Photo 9 – “The hill behind Lennox shops” as viewed from Park Lane, Lennox Head



Photo 10 – Close up of “The hill behind Lennox shops” as viewed from Park Lane, Lennox Head (Note: This part of Lot 21 is not a part of this planning proposal.)

Appendix 4 – Section 117 Direction Checklist

Section 117 Direction Checklist Planning Proposal Lot 12 DP 581159 and part Lot 21 DP 1007134, Greenwood Place Lennox Head	
Direction No.	Compliance of Planning Proposal
1. Employment and Resources	
1.1 Business and Industrial Zones	Does not apply to planning proposal.
1.2 Rural Zones	Inconsistent. However, the proposed rezoning is consistent with local and State government urban planning policy as the land is identified as a potential urban growth area in the Far North Coast Regional Strategy and the Ballina Shire Growth Management Strategy. The land is located adjoining the Lennox Head urban footprint area and has limited agricultural production values.
1.3 Mining, Petroleum Production and Extractive Industries	Does not apply to planning proposal.
1.4 Oyster Aquaculture	Does not apply to planning proposal.
1.5 Rural Land	Inconsistent. The planning proposal is, however, considered to be of overall minor significance. In addition the proposed rezoning and changes to minimum lot size standards for subdivision are consistent with local and State government urban planning policy as the land is identified as a potential urban growth area in the Far North Coast Regional Strategy and the Ballina Shire Growth Management Strategy. The land is located adjoining the Lennox Head urban footprint area and has limited agricultural production values.
2. Environment and Heritage	
2.1 Environmental Protection Zones	Consistent. The land is not considered to be an environmentally sensitive area on the basis of current information.
2.2 Coastal Protection	Consistent. The application of coastal planning principles as established under the NSW Coastal Policy, the Coastal Design Guidelines and the NSW Coastline Management Manual will be required to be evaluated by the proponent after Gateway determination.
2.3 Heritage Conservation	Consistent. There are no known items of environmental or Aboriginal cultural heritage value on the land. Heritage values will however, be required to be further assessed by the proponent after Gateway determination.
2.4 Recreation Vehicle Areas	Consistent. The proposed LEP amendment relates to provision of residential housing and does not involve development for the purpose of a recreational vehicle area.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Consistent. The proposed LEP amendment seeks to provide for additional residential development opportunities in the Lennox Head locality. The subject land is located close to existing services and adjoins the existing Lennox Head urban footprint area. The proposal involves a rezoning from rural land (RU2) to residential R2. The Ballina LEP 2012 include an existing provision (Clause 7.7) that requires that adequate servicing be in place, or suitable arrangements to have been made for such servicing, before development proceeds.
3.2 Caravan Parks and Manufactured Home Estates	Consistent. Caravan parks are permitted under the current RU2 Rural Landscape and 1(d) Rural (Urban Investigation) zones, which apply to the land. Caravan parks will continue to be permitted within the proposed R2 Low Density Medium Density Residential zone.
3.3 Home Occupations	Consistent. Home occupations are permitted in the R2 Low Density Residential.

3.4 Integrated Land Use and Transport	Consistent. The application of the principles set out under Improving Transport Choice – Guidelines for planning and development and The Right Place for Business and Services – Planning Policy will be able to be considered in the environmental assessment and planning report following submission of technical reports by the proponent.
3.5 Development Near Licensed Aerodromes	Consistent. The site does not protrude into the Obstacle Limitation Surface (OLS) associated with Ballina Byron Gateway Airport. The OLS affecting this land has an RL 46.5AHD. Site contour levels at the highest part of the site (far north –eastern corner) are approximately 45m AHD. If future development of the land exceeds the OSL this would then trigger the provisions of clause 7.5 Airspace operations, of Ballina LEP 2012, which requires consultation with the relevant Commonwealth body. The subject land is not affected by ANEF contours of 20 or greater. Refer Appendix 6 for extracts from the Obstacle Limitation Surface Map and a site contour map. Refer Appendix 7 for the ANEF map.
3.6 Shooting Ranges	Does not apply to planning proposal.
4. Hazard and Risk	
4.1 Acid Sulphate Soils	Does not apply to planning proposal.
4.2 Mine Subsidence and Unstable Land	Inconsistent. Lot 12 and part Lot 21 are located within an area identified as being susceptible to land slip (Coffee Partners Pty Ltd report Categories 1 and 3). More detailed investigation is required to determine the degree of land slip risk and its impact on any potential residential subdivision. A geotechnical assessment will be required to be prepared by the proponent to determine the specific risk of the land to geotechnical instability across the various potential hazard categories.
4.3 Flood Prone Land	Does not apply to planning proposal.
4.4 Planning for Bushfire Protection	Consistent The subject site is not designated bush fire prone land.
5. Regional Planning	
5.1 Implementation of Regional Strategies	Consistent. The proposed rezoning is consistent with the FNCRS as it is identified as a proposed future urban release area under the policy. The proposed rezoning is also consistent with the Ballina Shire Growth Management Strategy.
5.2 Sydney Drinking Water Catchments	Does not apply to planning proposal.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Inconsistent The subject land is identified as significant regional non - contiguous farmland under the Northern Rivers Farmland Protection Project mapping. However, the subject land is also identified as a proposed future urban release area under the and is identified as a potential urban area under the Ballina Shire Growth Management Strategy. Accordingly it is considered that the planning proposal complies with the planning principles contained in Section 4 of the report titled Northern Rivers Farmland Protection Project – Final Recommendations, February 2005. Refer Appendix 8 for an extract from Final Map 4.
5.4 Commercial and Retail Development	Does not apply to planning proposal.
5.5 Development in the vicinity of Ellalong Paxton and Millfield (Cessnock LGA).	Repealed
5.6 Sydney to Canberra Corridor	Repealed
5.7 Central Coast	Repealed

5.8 Second Sydney Airport: Badgerys Creek	Does not apply to planning proposal.
6. Local Plan Making	
6.1 Approval and Referral Requirements	Consistent. The planning proposal does not introduce any new concurrence or consultation provisions or any additional designated development types.
6.2 Reserving Land for Public Purposes	Consistent. This planning proposal does not create, alter or reduce existing zonings or reservations of land public purposes. The planning proposal does not propose to reserve land for a public purpose.
6.3 Site Specific Provisions	Does not apply to planning proposal.
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Strategy	Does not apply to planning proposal.

Appendix 5 – Report to the Council on 26 February 2015

9.2 LEP Amendment Request - Greenwood Place, Lennox Head

9.2 LEP Amendment Request - Greenwood Place, Lennox Head

Delivery Program Strategic Planning

Objective To present the Council with a proposal to amend the Ballina Local Environmental Plan 2012 to rezone land located at Lot 12 DP 581159 and part Lot 21 DP 1007134 being land located on the north eastern corner of Byron Bay Road and Greenwood Place, Lennox Head and to seek direction in relation to the further progress of the matter.

Background

In December 2014, Council received a request to amend the provisions of the Ballina Local Environmental Plan 2012 (the BLEP 2012). The request would have the effect of rezoning the land described above from zone RU2 Rural Landscape to zone R3 Medium Density under the instrument and apply a 450m² minimum lot size for future development.

The LEP amendment request relates to land contained within a Strategic Urban Growth Area as identified on maps which form a part of BLEP 2012.

The proponent is the Trustees of the Roman Catholic Church, Diocese of Lismore who are also the owners of Lot 12 DP 581159. This lot is located on the corner of Byron Bay Road and Greenwood Place, Lennox Head. The planning proposal also includes part of the adjoining Lot 21 DP 1007134 which is owned by the Condon family.

The Condon family was notified by Council staff that a planning proposal had been submitted and was invited to make comment. At the time of preparing this report a response had not been received.

The LEP amendment request is contained in Attachment One. The land the subject of this LEP amendment request is illustrated in the site plan contained in Attachment Two.

This report provides an overview of the LEP amendment request and seeks the Council's authorisation for the preparation of a planning proposal to progress the amendment.

Key Issues

- Suitability of land for residential zoning and development.
- Minimum applicable lot size.

Information

Zoning – Ballina LEP 2012 and Ballina LEP 1987

The subject land is zoned RU2 Rural Landscape under the provisions of the Ballina Local Environmental Plan 2012 (BLEP 2012). That part of Lot 21 which does not form a part of this LEP amendment request is designated as a deferred matter under the provisions of BLEP 2012 and retains its 1(d) Rural (Urban Investigation) zone under the provisions of Ballina LEP 1987.

Attachment Three contains a map which shows the zones that apply to the subject land.

The LEP amendment request relates to land which is designated as a Strategic Urban Growth Area (SUGA) under the provisions of BLEP 2012. The subject land has an area of approximately 2.1 hectares and a frontage of approximately 91.4 metres to Greenwood Place and 180 metres to Byron Bay Road.

A minimum 40 hectare lot size is currently applicable to the subject land. The proponent's original submission indicates that a minimum lot size of 450m² for future development was proposed.

Subsequent discussions with the proponent's planning consultant, Mr Stephen Connelly – Planners North, resulted in a subdivision concept plan being submitted which provides for a future minimum residential lot size of 600m².

The subdivision concept plan also provides a connection with Blue Horizon Drive and incorporates an additional lot (Lot 8) which is located partly outside the boundaries of the SUGA area. In total the plan indicates that 21 residential lots are proposed with lot sizes ranging from 600m² to 680m².

In respect to one lot, and the connection to Blue Horizon Drive, being located partly outside the boundary of the SUGA area this is considered to be acceptable at this stage of the rezoning process. Roads are a permitted use within the 1(d) Rural (Urban Investigation) zone under the provisions of Ballina LEP 1987.

A road connection as proposed would improve connectivity for the proposed subdivision, as well as the existing residential area to the north, and is therefore seen as a potential positive feature of this proposal.

Conversely, established residents in Blue Horizon Drive may be opposed to the development generally, and to a proposed road connection in particular, as they see their existing quiet enjoyment being diminished. This would be a matter for the Council's future deliberation if the planning proposal is initiated.

The proposed additional lot shown on the subdivision concept plan is also considered to be a minor issue at this stage of the process. If ultimately found to be reasonable, following consideration of land constraints, it will result in the rezoning of approximately 400m² more land than currently contained within the SUGA area.

Should the Council resolve to prepare a planning proposal then the issue of the additional lot located partly outside of the designated SUGA area will be able to be further considered.

This would be factored in as an adjustment to the initial LEP amendment request made by Planners North when preparing the planning proposal documentation for Council to review.

Attachment Four contains the subdivision concept plan.

The proponent's planning consultant was advised through discussion that a 450m² minimum lot size would not be supported at a Council staff level having regard to applicable land constraints such as topography and landslip risk affectation.

In this respect, lot sizing in the range of 600 to 800m², pending further investigation of site constraints, is considered to be more appropriate.

An 800m² minimum lot size is currently applicable to the residential lots which adjoin the subject land along its northern boundary and a 600m² minimum lot size is applicable to residential lots to the west of the subject site.

The submitted subdivision concept plan, and minimum 600m² minimum lot size, requires further investigation as to appropriateness but is considered reasonable at this stage of the rezoning process. Investigation of land constraints impacting on the land such as topography, landslip affectation and any buffer areas required to rural land uses will ultimately be used to determine whether a minimum lot size of 600m² is able to be supported.

Ballina Shire Growth Management Strategy (GMS)

The subject land is identified as a strategic urban growth area under the Council's adopted GMS (aside from the proposed Lot 8 and Blue Horizon Drive road connection as discussed above).

Given that the site is identified as a potential future urban area, the proposed rezoning for residential purposes is generally consistent with Council's local urban planning framework.

Lennox Head Structure Plan (LHSP)

Part of the subject land (Lot 12, DP 581159) is designated as a Candidate Release Area within the LHSP. Whilst the LHSP map did not extend the Candidate Release Area over part Lot 21 DP 1007134 there is a clear intent, within the written structure plan document, to extend the Candidate Release Area up to the then existing stand of Banksia trees, located east of Greenwood Place, upon Lot 21.

It is the line of trees located on Lot 21 which subsequently formed the eastern most extremity of the SUGA designated area within BLEP 2012.

Far North Coast Regional Strategy 2006 (FNCRS)

The subject land (aside from the proposed Lot 8 and Blue Horizon Drive road connection as discussed above) is located within a proposed future urban release area and is also indicated as being within an area of high level constraints under the FNCRS.

The proposed rezoning for residential purposes is consistent with this strategy, subject to constraints being able to be mitigated. Constraints in this case consist of potential land slip susceptibility and in respect to the seaward side of the hill (not part of this planning proposal) its visual significance.

Site Assessment

The proponent has not examined applicable land constraints in any significant detail. A more detailed site investigation will be required post Gateway determination. This investigation will be required to include the issues detailed in the table below which have been identified as being of relevance to this planning proposal:

Issue	Comment
Coastal Zone Impacts and Visual Amenity Impacts	The subject land is located within the coastal zone. Consideration of relevant matters as specified in Clause 8 of SEPP 71 - Coastal Protection and Appendix C – Table 3 of the NSW Coastal Policy is required. This includes issues associated with visual impacts. The Coastal Zone Design Guidelines 2003 are also required to be considered. Consideration of potential building envelopes and subdivision lot design will be required.
Due Diligence Aboriginal Heritage Assessment	Cultural heritage significance associated with the land requires assessment.
Ecological Matters	Potential flora and fauna impacts require assessment.
Geotechnical Investigation	This is covered in the landslip consideration below. Soils are prone to erosion, and mass movement of soil has previously been an issue with the past development of nearby land.
Land Contamination	Site history is unclear, although it appears the land has been used for grazing for 50 years. A preliminary site investigation is warranted.

9.2 LEP Amendment Request - Greenwood Place, Lennox Head

Issue	Comment
Land Slip	The subject land is located within an area identified as being susceptible to land slip (Coffey Partners Pty Ltd). More detailed investigation is required to determine the degree of risk associated with landslip and its impact on any potential residential subdivision. The Roman Catholic Church land is designated as a Category 3 landslip area. Site levels vary from approximately 22m to 38m AHD according to the 2 metre contour map. The Condon land is designated as a Category 1 landslip susceptible area. Site levels across the whole of this land vary from 6m to 56m AHD, but levels for the land which forms a part of this planning proposal vary from approximately 30 to 42m AHD.
Land Use Conflicts	The compatibility of non-intensive agricultural land uses, if proposed to be continued upon part Lot 21, with residential uses proposed for Lot 12 and part Lot 21 requires consideration. A basic Land Use Conflict Risk Assessment (LUCRA) should be undertaken to determine the extent of any buffer areas required if agricultural uses such as cattle grazing are proposed. Clarification from the proponent in respect to this matter is required.
Mosquito Management	An entomologist's report may be required which demonstrates compliance with DCP 2012 – Chapter 2, Section 3.6 – Mosquito Management.
Road Noise Issues	An assessment related to road noise impact issues is required to be prepared in accordance with the provisions of the NSW Road Traffic Noise Policy. The required acoustic report will ensure that any acoustic walls, mounds, setbacks or other attenuation measures are able to be incorporated into the future subdivision development, having regard to proposed minimum lot sizes.
Traffic and Access	Assessment is required to determine the optimal arrangements for site access considering both Greenwood Place and Blue Horizon Drive. Consideration of traffic impacts on the surrounding residential area is also required.
Services and Stormwater Management Report	A stormwater management report will be required which examines issues related to on-site stormwater detention and location of bio filtration areas if proposed, and associated points of discharge. A concept sewer design which is able to demonstrate a satisfactory connection to the existing network is also required.

Sustainability Considerations

- Environment**
 The subject land is substantially cleared of trees and contains predominately grass and weed species. The significance of this vegetation, as well as the impact of any proposed subdivision on adjoining flora and fauna communities, would be required to be assessed further if the planning proposal proceeds.

At this stage the proponent has indicated that as the site has been used for agricultural purposes for some five decades no critical habitat or threatened species exist on the site. Whilst this may well be the case, no supporting specialist advice has been submitted to support this statement.

- **Social**

The potential for adverse social impact is considered to be limited given the infill nature of the proposed LEP amendment request.

- **Economic**

Economic impacts associated with the release of additional residential land in a desirable location are considered to be positive.

Legal / Resource / Financial Implications

There are no significant resourcing or financial implications associated with the further processing of the LEP amendment. Subject to the Council's decision, the next step in the process would be to prepare a planning proposal suitable for submission to the Department of Planning and Environment (DP&E) for Gateway determination.

Following a favourable Gateway determination the applicant would be requested to submit additional information which addresses identified land constraint issues, as generally referred to above.

Council's adopted fees and charges associated with LEP amendments would be applied to the further processing of the request.

Consultation

There has been no consultation undertaken, with either the community or government agencies, in relation to this LEP amendment request to date as the matter is in the initial phase.

Should the matter proceed, an affirmative Gateway determination will advise of consultation requirements with government agencies and the community. Community engagement would then occur following assessment of the required additional information, and in accordance with the Gateway determination.

Options

1. Proceed to prepare a planning proposal for the application of an R3 Medium Density Residential zone to the subject land.

This approach would authorise the preparation of a planning proposal for Gateway determination. The proposal would be reported to the Council for further consideration prior to its submission to the Gateway panel.

While it is considered that additional information is required to finally determine the most appropriate minimum lot size, and future subdivision configuration, the land the subject of the LEP amendment request appears to be generally suitable for a medium density residential zoning to enable a range of residential land uses. The planning proposal to be prepared for submission to the DP&E would identify that further investigation of land constraints would be required to confirm the suitability of the 600m² minimum lot size as shown on the subdivision concept plan. It would also be prepared to include the area of the proposed Lot 8 and the Blue Horizon Drive road connection as part of the area proposed for residential development to enable further assessment of these matters.

This option is the preferred and recommended approach, given the site's strategic planning context as referred to earlier in this report.

2. Defer or amend the planning proposal.

This approach is not recommended given:

- the proposed rezoning is substantially limited to an area which has been designated as a Strategic Urban Growth Area (SUGA) in Ballina LEP 2012 and within the Ballina Shire Growth Management Strategy; and
- the proposed LEP amendment is generally consistent with Council's strategic land use planning framework for the locality.

Council could, however, determine at this stage that it will not support the rezoning of approximately 400m² of land located outside the SUGA area (the proposed Lot 8) or the road link to Blue Horizon Drive and require the subdivision concept plan to be amended prior to the planning proposal being prepared. Equally, this same decision could be made later, once the Council has had the benefit of receiving a further report relating to the various technical issues, and has received community feedback, particularly from nearby residents, following formal public exhibition of the planning proposal.

3. Cease further action in relation to the planning proposal.

For the same reasons outlined in relation to Option 2, this approach is not recommended.

Importantly, the Council can elect to discontinue a planning proposal at other stages of the LEP amendment process if considered appropriate. That said however, and as the Council is aware, certain recourse procedures are now available to proponents if they were dissatisfied with such a Council decision.

RECOMMENDATIONS

1. That Council prepare a planning proposal for the application of an R3 Medium Density Residential zone over Lot 12 DP 581159 and that part of Lot 21 DP 1007134 designated as a Strategic Urban Growth Area in Ballina LEP 2012 as well as incorporating the road link to Blue Horizon Drive and the area of the proposed Lot 8.
2. That the subdivision potential and associated minimum lot size for the possible future development of Lot 12 DP 581159 and part of Lot 21 DP 1007134 be determined following assessment of additional technical information.
3. That for the purpose of supporting further investigation, the planning proposal is to identify a minimum lot size for subdivision of 600 m².
4. That a further report be presented to the Council documenting the planning proposal prior to its submission for Gateway determination.

Attachment(s)

1. LEP Amendment Request
2. Site Plan
3. Current Zoning Plan
4. Subdivision Concept Plan

9.2 LEP Amendment Request - Greenwood Place, Lennox Head

260215/1 RESOLVED

(Cr Paul Worth/Cr Susan Meehan)

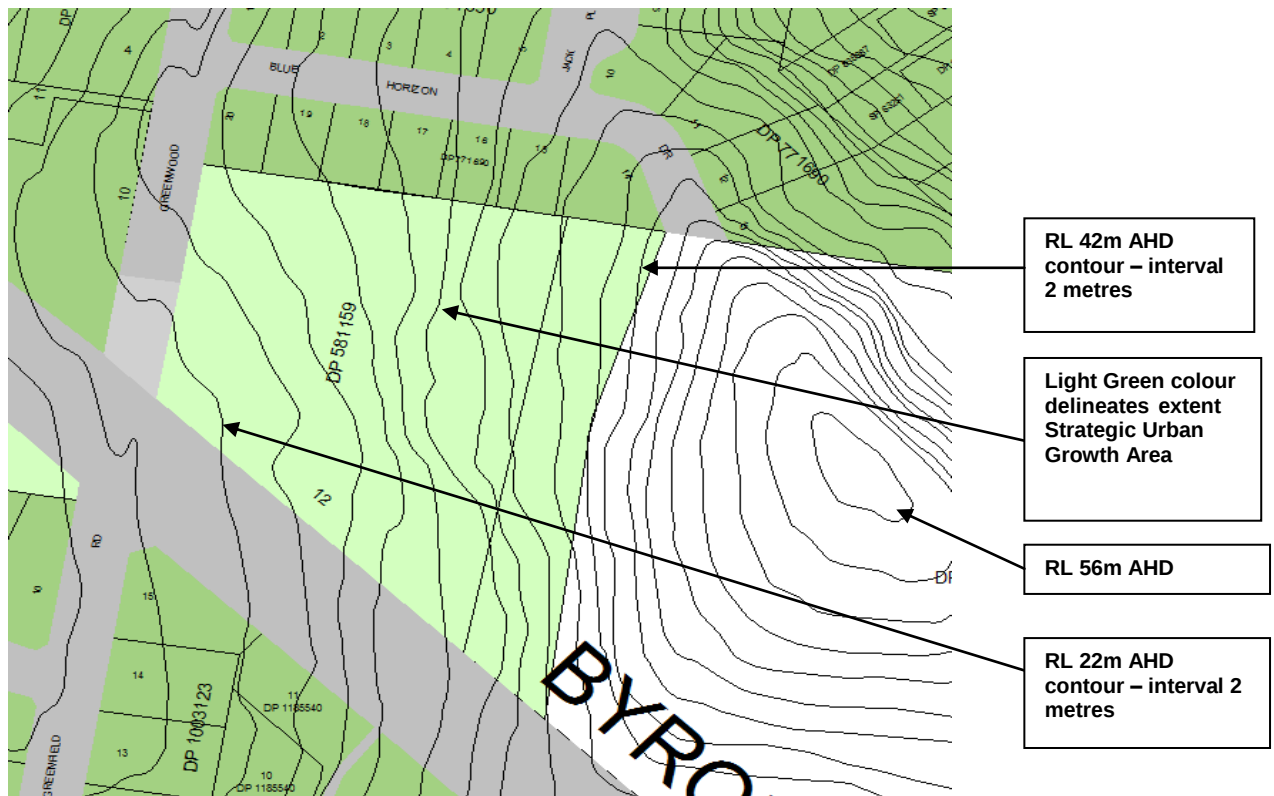
1. That Council prepare a planning proposal for the application of an R2 Residential zone over Lot 12 DP 581159 and that part of Lot 21 DP 1007134 designated as a Strategic Urban Growth Area in Ballina LEP 2012 as well as incorporating the road link to Blue Horizon Drive and the area of the proposed Lot 8.
2. That the subdivision potential and associated minimum lot size for the possible future development of Lot 12 DP 581159 and part of Lot 21 DP 1007134 be determined following assessment of additional technical information.
3. That for the purpose of supporting further investigation, the planning proposal is to identify a minimum lot size for subdivision of 800 m².
4. That a further report be presented to the Council documenting the planning proposal prior to its submission for Gateway determination.

FOR VOTE - Cr David Wright, Cr Jeff Johnson, Cr Keith Williams, Cr Susan Meehan, Cr Ken Johnston, Cr Paul Worth and Cr Robyn Hordern

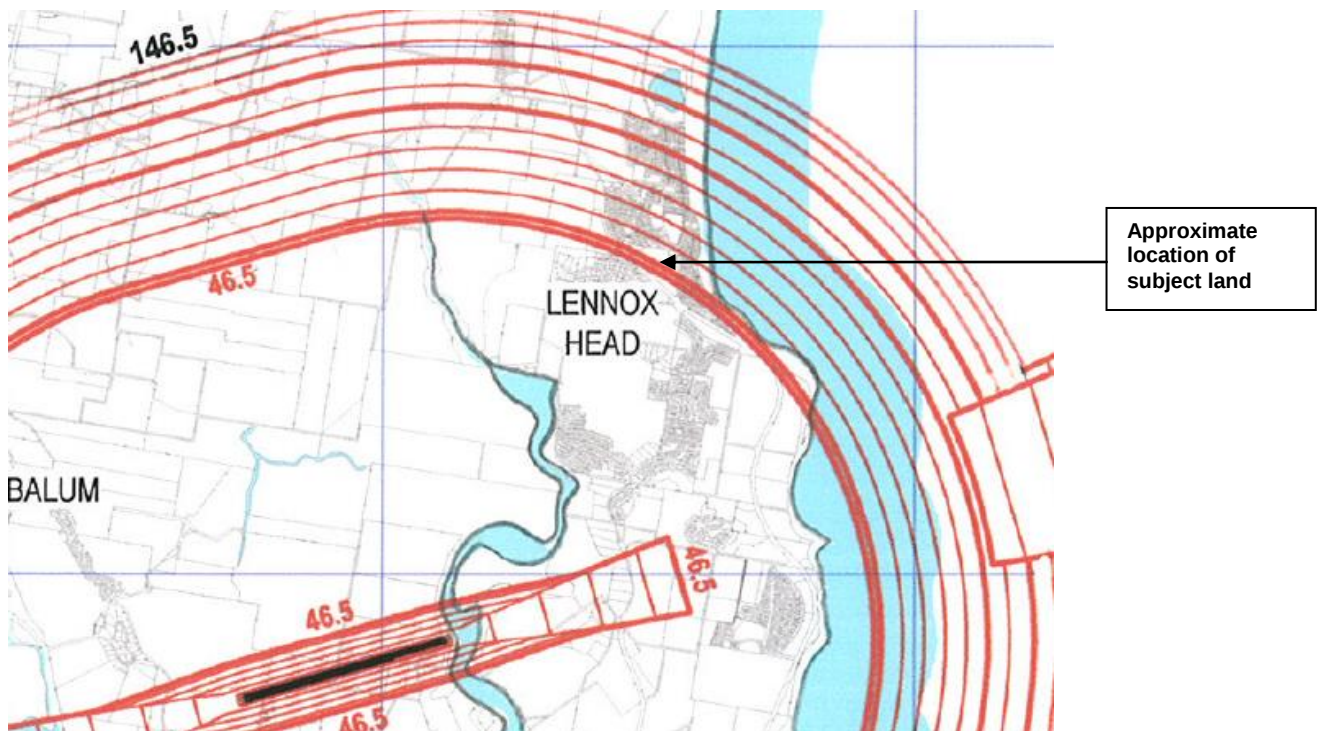
AGAINST VOTE - Cr Sharon Cadwallader, Cr Keith Johnson and Cr Ben Smith

Appendix 6 – Extract from Site Contour Map and Existing Obstacle Limitation Surface Map No 11

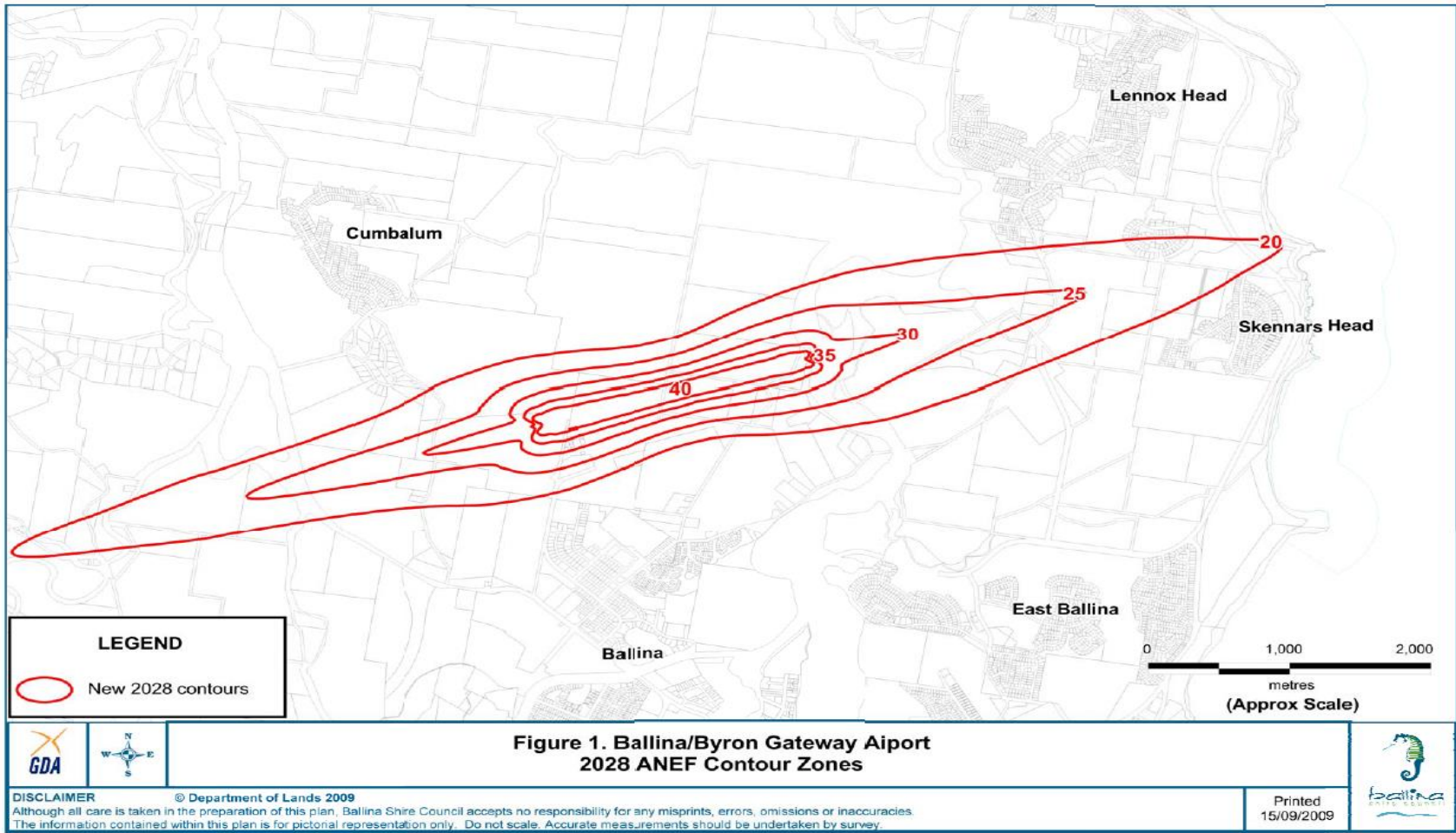
Extract from Site Contour Map



Extract from Existing Obstacle Limitation Surface Map No 11



Appendix 7 – 2028 ANEF Contour Map



A map of the coastal area of Lennox Head. The map shows a coastline with a road running along it. A red line indicates the location of the subject land. A black arrow points from a text box to this red line.

Lennox Head

Approximate location of subject land

 State Significant Farmland
 Regionally Significant Farmland
 Significant Non-Contiguous Farmland
 Other Rural Land
 Committed Urban Uses and Rural-Residential Zones
 National Parks, State Forests
 Land outside Northern Rivers Catchment Management Area

 Highways
 Major Roads
 Railways
 Watercourses

 Land Parcel Boundary
 Catchment Management Board Boundary
 Local Government Boundary

Plan 1 - 600m² Minimum Lot Size Proposal



Plan 2 - Mixed 600m² and 800m² Minimum Lot Size Proposal



Plan 3 - 800m² Minimum Lot Size Proposal



Appendix 10 – Report to Council 26 March 2015

9.2 LEP Amendment - Greenwood Place, Lennox Head

9.2 LEP Amendment - Greenwood Place, Lennox Head

Delivery Program Strategic Planning

Objective To present the Council with a planning proposal to amend the Ballina Local Environmental Plan 2012 to rezone an area predominantly designated as a Strategic Urban Growth Area located on the north - eastern corner of Greenwood Place and Byron Bay Road Lennox Head to R2 Low Density Residential.

Background

The Council, at its Ordinary Meeting held on 26 February 2015, considered a request to amend the Ballina Local Environmental Plan 2012 (Ballina LEP 2012), relating to land owned by the Roman Catholic Church and the Condon family (Lot 12 DP 581159 and part Lot 21 DP 1007134).

The original LEP amendment request sought the rezoning of this land from RU2 Rural Landscape to R3 Medium Density Residential zone.

The LEP amendment request relates to land predominantly contained within a Strategic Urban Growth Area (SUGA) as identified on maps which form a part of BLEP 2012.

A very small section of the site, as subsequently identified in a subdivision concept plan, is located outside of the SUGA area and forms part of a deferred matter area under Ballina LEP 2012.

This land retains its 1(d) Rural (Urban Investigation) zone under the provisions of Ballina LEP 1987. Its inclusion within the planning proposal is required so as to facilitate a possible road access to Blue Horizon Drive.

In relation to this matter, the Council resolved as follows [Minute No.260215/10]:

1. That Council prepare a planning proposal for the application of an R2 Residential zone over Lot 12 DP 581159 and that part of Lot 21 DP 1007134 designated as a Strategic Urban Growth Area in Ballina LEP 2012 as well as incorporating the road link to Blue Horizon Drive and the area of the proposed Lot 8.
2. That the subdivision potential and associated minimum lot size for the possible future development of Lot 12 DP 581159 and part of Lot 21 DP 1007134 be determined following assessment of additional technical information.
3. That for the purpose of supporting further investigation, the planning proposal is to identify a minimum lot size for subdivision of 800 m².
4. That a further report be presented to the Council documenting the planning proposal prior to its submission for Gateway determination.

The planning proposal has now been prepared and forms Attachment One to this report.

The purpose of this report is to seek the Council's endorsement of the planning proposal for submission to the Department of Planning and Environment (DP&E) to obtain a Gateway determination.

Established practice in relation to this type of LEP amendment is for the Council to receive the planning proposal documentation for consideration (following initial commencement of an LEP amendment process) with a view to determining whether the matter should progress to Gateway determination.

Key Issues

- Suitability of land for residential zoning and development.
- Minimum applicable lot size.

Information

The planning proposal applies an R2 Low Density Residential zone to the subject land with a minimum lot size of 800m². Provision is also made to alter the boundaries of the Strategic Urban Growth Area and associated buffers which arise following the rezoning of the subject land.

At this stage of the process a number of site specific studies and assessments have been identified as being required. These are listed below and should be required to be prepared post Gateway determination and prior to public exhibition of the proposal:

- Contaminated Land Assessment,
- Coastal Zone Impacts and Visual Amenity Impacts Assessment,
- Geotechnical Assessment (Landslip),
- Due Diligence Aboriginal Heritage Assessment,
- Services and Stormwater Management Report,
- Land Use Conflict Risk Assessment,
- Flora and Fauna Assessment,
- Mosquito Management Report, and
- Road Noise Impact Assessment Report.

These technical studies will be prepared by or on behalf of the property owners and presented to Council for assessment and review. Costs incurred by Council (including payment for peer review of the studies) will be borne by the landowners.

The proponents initially requested a 450m² minimum lot size be applied to the future subdivision of the land. Following discussion with the proponent a subdivision concept plan was submitted which incorporated 21 lots in a lot size range from 600m² to 680m².

The report to the Council's Ordinary Meeting on 26 February 2015 indicated that a lot size range between 600m² to 800m², pending further investigation of site constraints, was considered to be more appropriate.

In respect to minimum lot sizes, the Council subsequently resolved that an 800m² minimum lot size is to be identified within the planning proposal.

The Council however, also resolved that potential and associated minimum lot size for the possible future development of Lot 12 DP 581159 and part of Lot 21 DP 1007134 be determined following assessment of additional technical information.

Consistent with Council's resolution the attached planning proposal makes provision for an 800m² minimum lot size over the subject site. It also indicates that final determination of the applicable minimum lot size will be made following the detailed assessment of site constraints post public exhibition.

Subsequent to the above Council resolution, the proponent has submitted two subdivision concept plans, one of which provides for a minimum lot size of 800m² and the other for a part 600m² and part 800m² minimum lot size scheme.

The relative merits of these options cannot be determined at this stage until specialist reports dealing with site constraints are submitted and assessed.

Whilst 800m² has been nominated as the minimum lot size by the Council at this stage of the process it may also be the case that a larger minimum may be required depending, for example, on the extent of buffer areas (if any) required to the adjoining rural zoned land. Similarly, justification for a lot size below 800m² for part of the site may also be established.

The proponent's revised subdivision concept plans form Attachment Two to this report.

The attached planning proposal indicates that the LEP amendment request is generally consistent with the applicable strategic planning framework, including the Far North Coast Regional Strategy 2006, the Ballina Shire Growth Management Strategy and the Lennox Head Structure Plan.

Applicable State Government environmental planning policies and directions under section 117 of the Environmental Planning and Assessment Act are also addressed. No barriers to this LEP amendment request progressing to Gateway determination have been identified.

Sustainability Considerations

- **Environment**

The subject land is substantially cleared and contains mainly grass and weed species. Whether any of this vegetation and associated site fauna is of environmental value is proposed to be subject to further assessment. The assessment will be required to undertaken prior to public exhibition if the planning proposal proceeds further.

It is also noted that a visual impact assessment of possible future development will be undertaken, due to the land's elevation and prominence.

- **Social**

There is a variety of social issues to consider in relation to the proposal, including implications for scenic and amenity values. These matters can be assessed in detail prior to public exhibition if the planning proposal proceeds further.

- **Economic**

The proposal has the potential to result in a number of positive economic impacts associated with construction and infrastructure. These matters can be further considered prior to public exhibition.

Legal / Resource / Financial Implications

There are no specific legal implications associated with this proposed LEP amendment at this time.

In the event that Council wishes to advance this proposal, the proponent will be required to meet various processing costs, in accordance with the Council's adopted schedule of fees and charges.

Progress of this matter can be accommodated within the Strategic and Community Facilities Group work program.

Consultation

Consultation with relevant Government agencies will be required post Gateway, and following the submission of technical reports. The agency proposed to be consulted at this stage is the Department of Primary Industries.

Options

1. Endorse the planning proposal for submission to the DP&E for Gateway determination.

This is the preferred and recommended option.

The proposed LEP amendment primarily provides for the rezoning of an area identified as a Strategic Urban Growth Area within Ballina LEP 2012. It is also consistent with the applicable strategic planning framework established for Lennox Head. A potential additional benefit arising from this amendment request will be improved road access connectivity between Greenwood Place and Blue Horizon Drive. However, more may be said about this when neighbouring property owners have been consulted through a formal public exhibition process.

The issue of applicable minimum lot size is proposed to be further addressed through the examination of site constraints and associated technical reports. The planning proposal as prepared however, incorporates a minimum lot size of 800m² for the site.

In relation to this matter the Council will also have further opportunity to consider the proposal prior to the matter being finalised and after public exhibition following Gateway determination.

2. Require the proponent to submit additional information for incorporation into the planning proposal prior to submission to the DP&E for Gateway determination.

This approach is not recommended given:

- the additional information identified consists primarily of specialist reports. Council's approach has been to require these once the LEP amendment request has obtained the greater certainty associated with a Gateway determination.
- the proposal is generally consistent with the applicable strategic planning framework and relevant State Government directions.

3. Cease or defer processing of the LEP amendment request.

The Council may decline or defer the consideration of the requested LEP amendment. For the same reasons outlined in relation to Option 2, this approach is not recommended.

Importantly, the Council can elect to discontinue a planning proposal at other stages of the LEP amendment process if considered appropriate. That said however, certain recourse procedures are now available to proponents if they were dissatisfied with such a Council decision.

Delegation of Plan Making Functions

The Gateway submission to DP&E is required to address whether the Council is proposing to exercise plan-making delegations in finalising the LEP amendment. This means staff would liaise directly with Parliamentary Counsel to finalise the drafting of the amendment for implementation following public exhibition and the Council "signing off" the proposal.

Although there are resourcing implications for Council (more staff time in processing), it is recommended that the Council provide an indication at this stage that it is proposing to exercise its delegation in this instance. Under this approach, the Council would make its final decision on whether to exercise its delegations at the time of deciding on the finalisation of the amendment post public exhibition.

RECOMMENDATIONS

1. That Council authorises the submission of a planning proposal, to amend the Ballina Local Environmental Plans 1987 and 2012, to apply an R2 Residential zone over Lot 12 DP 581159 and part of Lot 21 DP 1007134, and alter the Strategic Urban Growth Area boundaries including buffer areas, as indicated in maps which form a part of the planning proposal, to the Department of Planning and Environment for review and Gateway determination.
2. The planning proposal to make provision for the proposed R2 zone being subject to a minimum lot size of 800m² and the ultimate minimum lot size being subject to further investigation and determination by the Council after public exhibition.
3. That upon an affirmative Gateway determination being received, the procedural steps associated with the progression of the planning proposal, including public exhibition, be undertaken.
4. That a further report be presented to the Council in relation to this matter following the mandatory community consultation.

5. That the Department of Planning and Environment be advised that, at this stage of the process, it is the Council's intention to exercise its delegated plan making functions.

Attachment(s)

1. Attachment One - Planning proposal
2. Attachment Two - Subdivision Concept Plans

260315/13 RESOLVED

(Cr Paul Worth/Cr Ben Smith)

1. That Council authorises the submission of a planning proposal, to amend the Ballina Local Environmental Plans 1987 and 2012, to apply an R2 Residential zone over Lot 12 DP 581159 and part of Lot 21 DP 1007134, and alter the Strategic Urban Growth Area boundaries including buffer areas, as indicated in maps which form a part of the planning proposal, to the Department of Planning and Environment for review and Gateway determination.
2. The planning proposal to make provision for the proposed R2 zone being subject to a minimum lot size of 800m² and the ultimate minimum lot size being subject to further investigation and determination by the Council after public exhibition.
3. That upon an affirmative Gateway determination being received, the procedural steps associated with the progression of the planning proposal, including public exhibition, be undertaken.
4. That a further report be presented to the Council in relation to this matter following the mandatory community consultation.
5. That the Department of Planning and Environment be advised that, at this stage of the process, it is the Council's intention to exercise its delegated plan making functions.

FOR VOTE - All Councillors voted unanimously